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THE FEDERAL AND STATE

CONSTITUTIONS

COLONIAL CHARTERS, AND OTHER ORGANIC LAWS

OF THE

STATES, TERRITORIES, AND COLONIES

NOW OR HERETOFORE FORMING

THE UNITED STATES OF AMERICA

Compiled and Edited
under the Act of Congress of June 30, 1906

By

FRANCIS NEWTON THORPE, Ph. D., LL. D.

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DISCARD

VOL. V

New Jersey—Philippine Islands

WASHINGTON
GOVERNMENT PRINTING OFFICE
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NEW JERSEY

For organic acts relating to the lands now included within New Jersey see in other parts of this work:—

Virginia Charter of 1606 (Virginia, p. 3783).
Council for New England, 1620 (Massachusetts, p. 1827).
Dutch West India Company, 1621 (p. 59).
Grant to Duke of York, 1664 (Maine, p. 1637).
Grant to Duke of York, 1674 (Maine, p. 1641).

THE DUKE OF YORK'S RELEASE TO JOHN LORD BERKELEY, AND SIR GEORGE CARTERET, 24TH OF JUNE, 1664[a]

THIS INDENTURE made the four and twentieth day of June, in the sixteenth year of the reign of our sovereign Lord, Charles the Second, by the grace of God of England, Scotland, France and Ireland, King Defender of the Faith, &c., Annoq. Domini, 1664. Between His Royal Highness, James Duke of York, and Albany, Earl of Ulster, Lord High Admiral of England, and Ireland, Constable of Dover Castle, Lord Warden of the Cinque ports, and Governor of Portsmouth, of the one part: John Lord Berkeley, Baron of Stratton, and one of His Majesty's most Honourable Privy Council, and Sir, George Carteret of Saltrum, in the County of Devon, Knight and one of His Majesty's most Honourable Privy Council of the other part: Whereas his said Majesty King Charles the Second, by his Letters Patents under the Great Seal of England, bearing date on or about the twelfth day of March, in the sixteenth year of his said Majesty's reign, did for the consideration therein mentioned, give and grant unto his said Royal Highness James, Duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix next adjoining to New Scotland in America; and from thence extending along the sea coast unto a certain place called Pemaquie or Pemaquid, and so by the river thereof to the furthest head of the same as it tendeth northward; and extending from thence to the river of Kenebeque, and so upwards by the shortest course to the river Canady northwards; and also all that island or islands commonly called by the several name or names of Matowacks or Long Island, situate and being towards the west of Cape Codd and the Narrow Higansetts, abutting upon the main land between the two rivers there, called or known by the several names of Connecticut, and Hudson's river; together also with the said river called Hudson's river, and all the land from the west side of the Connecticut river to the east side of the Delaware

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer. 2d Ed., pp. 8–11.

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Bay: and also several other islands and lands in said Letters Patents mentioned, together with the rivers, harbours, mines, minerals, quarries, woods, marshes, waters, lakes, fishing, hawkings, huntings, and fowling, and all other royalties, profits, commodities and heriditaments to the said several islands lands and premises belonging and appertaining, to have and to hold the said lands, islands, hereditaments and premises, with their and every of their appurtenances, unto his said Royal Hiness James Duke of York, his heirs and assigns for ever; to be holden of his said Majesty, his heirs and successors, as of the manner of East Greenwich, in the County of Kent, in free and common soccage, yielding and rendering unto his said Majesty his heirs and successors of and for the same, yearly and every year, forty beaver skins, when they shall be demanded, or within ninety days after; with divers other grants, clauses, provisos, and agreements, in the said recited Letters Patents contain'd, as by the said Letters Patents, relation being thereunto had, it doth and may more plainly and at large appear. Now this Indenture witnesseth, that his said Royal Highness James Duke of York, for and in consideration of a competent sum of good and lawful money of England to his said Royal Highness James Duke of York in hand paid by the said John Lord Berkley and Sir George Carteret, before the sealing and delivery of these presents, the receipt whereof the said James Duke of York, doth hereby acknowledge, and thereof doth acquit and discharge the said John Lord Berkley and Sir George Carteret forever by these presents hath granted, bargained, sold, released and confirmed, and by these presents doth grant, bargain, sell, release and confirm unto the said John Lord Berkley and Sir George Carteret, their heirs and assigns for ever, all that tract of land adjacent to New England, and lying and being to the westward of Long Island, and Manhitas Island and bounded on the east part by the main sea, and part by Hudson's river, and hath upon the west Delaware bay or river, and extendeth southward to the main ocean as far as Cape May at the mouth of the Delaware bay; and to the northward as far as the northermost branch of the said bay or river of Delaware, which is forty-one degrees and forty minutes of latitude, and crosseth over thence in a strait line to Hudson's river in forty-one degrees of latitude; which said tract of land is hereafter to be called by the name or names of New Caeserea or New Jersey: and also all rivers, mines, mineralls, woods, fishings, hawking, hunting, and fowling, and all other royalties, profits, commodities, and hereditaments whatever, to the said lands and premises belonging or in any wise appertaining; with their and every of their appurtenances, in as full and ample manner as the same is granted to the said Duke of York by the before-recited Letters Patents; and all the estate, title, interest, benefit advantage, claim and demand of the said James Duke of York, of in or to the said and premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders thereof: All of which said tract of land and premises were by indenture, bearing date the day before the date hereof, bargain'd and sold by the said James Duke of York, unto the said John Lord Berkeley and Sir George Carteret, for the term of one whole year to commence from the first day of May last past, before the date thereof, under the rent of a peper corn, payable as therein is mentioned as by the said deed more plainly may appear: by force

and virtue of which said indenture of bargain and sale, and of the statute for transferring of uses into possession, the said John Lord Berkley and Sir George Carteret, are in actual possession of the said tract of land and premises, and enabled to take a grant and release thereof, the said lease being made to that end and purpose, to have and to hold all and singular the said tract of land and premises; with their, and every of their appurtenances, and every part and parcel thereof, unto the said John Lord Berkeley and Sir George Carteret, their heirs and assigns for ever, to the only use and behoof of the said John Lord Berkeley and Sir George Carteret their heirs and assigns for ever; yielding and rendering therefore unto the said James Duke of York, his heirs and assigns, for the said tract of land and premises, yearly and every year the sum of twenty nobles of lawful money of England, if the same shall be lawfully demanded at or in the Inner Temple Hall, London, at the Feast of St. Michael the Arch Angel yearly. And the said John Lord Berkley and Sir George Carteret for themselves and their heirs, covenant and grant to and with the said James Duke of York, his heirs and assigns by these presents, that they the said John Lord Berkley and Sir George Carteret, their heirs and assigns, shall and will well and truly pay or cause to be paid unto the said James Duke of York, his heirs and assigns, the said yearly rent of twenty nobles at such time and place, and in such manner and form as before in these presents is expressed and delivered. In witness whereof the parties aforesaid to these presents have interchangeably set their hands and seals, the day and year first above written.

JAMES.

Sign'd, seal'd and deliver'd in the presence of
WILLIAM COVENRYE,
THOMAS HEYWOOD.

THE CONCESSION AND AGREEMENT OF THE LORDS PROPRIETORS OF THE PROVINCE OF NEW CAESAREA, OR NEW JERSEY, TO AND WITH ALL AND EVERY THE ADVENTURERS AND ALL SUCH AS SHALL SETTLE OR PLANT THERE—1664 [a]

IMPRIMUS. We do consent and agree, that the Governor of the said Province hath power, by the advice of his Council, to depute one in his place and authority, in case of death or removal, to continue until our further order, unless we have commissionated one before.

ITEM. That he hath likewise power to make choice of and to take to him six councellors at least, or twelve at most, or any even number between six and twelve, with whose advice and consent, or with at least three of the six, or four of a greater number (all being summon'd) he is to govern according to the limitations and instructions following, during our pleasure.

ITEM. That the chief Secretary or register which we have chosen, or shall choose, (we failing) that he shall choose, shall keep exact entries in fair books of all publick affairs: and to avoid deceits and lawsuits, shall record and enter all grants of land from the lords to

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer, 2d Ed., pp. 12–26.

the planters; and all conveyances of land, house or houses from man to man, as also all leases for land, house or houses, made or to be made by the landlord to any tenant for more than one year; which conveyance or lease shall be first acknowledged by the grantor or leasor, or proved by the oath of two witnesses to the lease or conveyance, before the Governor or some chief judge of a court for the time being, who shall under his hand on the backside of the said deed or lease, attest the acknowledgment or proof as aforesaid; which shall be a warrant for the register to record the same: which conveyance so recorded shall be good and effectual in law, notwithstanding any other conveyance, deed or lease for the said land, house or houses, or for any part thereof, altho' dated before the conveyance, deed or lease, recorded as aforesaid: And the said register shall do all other thing or things that we by our instructions shall direct, and the Governor, Council and General Assembly shall ordain for the good and welfare of the said Province.

Item. That the Surveyor General, that we have chosen or shall choose, (we failing that the Governor shall choose) shall have power by himself or deputy, to survey, lay out and bound all such lands as shall be granted from the lords to the planters; and all other lands within the said Province which may concern particular men as he shall be desired to do, and a particular thereof certify to the register to be recorded as aforesaid. Provided, that if the said register and surveyor, or either of them, shall misbehave themselves, as that the Governor and Council or Deputy Governor and Council, or the major part of them, shall find it reasonable to suspend their actings in their respective employments, it shall be lawful for them so to do, until further orders from us.

Item. That the Governor, Councellors, Assembly Men, Secretary, Surveyor, and all other officers of trust, shall swear or subscribe (in a book to be provided for that purpose) that they will bear true allegiance to the King of England, his heirs and successors; and that they will be faithful to the interests of the Lords Proprietors of the said Province and their heirs, executors and assigns; and endeavour the peace and welfare of the said Province; and that they will truly and faithfully discharge their respective trust in their respective offices, and do equal justice to all men, according to their best skill and judgment, without corruption, favour or affection; and the names of all that have sworn or subscribed, to be entered in a book. And whosoever shall subscribe and not swear, and shall violate his promise in that subscription, shall be liable to the same punishment that the persons are or may be that have sworn and broken their oaths.

Item. That all persons that are or shall become subjects of the King of England, and swear, or subscribe allegiance to the King, and faithfulness to the lords, shall be admitted to plant and become freemen of the said Province, and enjoy the freedoms and immunities hereafter express'd, until some stop or contradiction be made by us the Lords, or else the Governor, Council and Assembly, which shall be in force until the Lords see cause to the contrary: provided that such stop shall not any ways prejudice the right or continuance of any person that have been receiv'd before such stop or orders come from the General Assembly.

ITEM. That no person qualified as aforesaid within the said Province, at any time shall be any ways molested, punished, disquieted or called in question for any difference in opinion or practice in matter of religious concernments, who do not actually disturb the civil peace of the said Province; but that all and every such person and persons may from time to time, and at all times, freely and fully have and enjoy his and their judgments and consciences in matters of religion throughout the said Province they behaving themselves peaceably and quietly, and not using this liberty to licentiousness, nor to the civil injury or outward disturbance of others; any law, statute or clause contained, or to be contained, usuage or custom of this realm of England, to the contrary thereof in any wise notwithstanding.

ITEM. That no pretence may be taken by our heirs or assigns for or by reason of our right of patronage and power of advouson, granted by his Majesty's Letter's Patents, unto his Royal Highness James Duke of York, and by his said Royal Highness unto us, thereby to infringe the general clause of liberty of conscience, aforementioned: we do hereby grant unto the General Assembly of the said Province, power by act to constitute and appoint such and so many ministers or preachers as they shall think fit, and to establish their maintenance, giving liberty beside to any person or persons to keep and maintain what preachers or ministers they please.

ITEM. That the inhabitants being freemen, or chief agents to others of the Province aforesaid; do as soon as this our commission shall arrive, by virtue of a writ in our names by the Governor to be for the present (until our seal comes) sealed and signed, make choice of twelve deputies or representatives from amongst themselves; who being chosen are to join with the said Governor and council for the making of such laws, ordinances and constitution as shall be necessary for the present good and welfare of the said Province. But so soon as parishes, divisions, tribes and other distinctions are made, that then the inhabitants or freeholders of the several respective parishes, tribes, divisions and distinctions aforesaid, do by our writts, under our seals, (which we ingage, shall be in due time issued) annually meet on the first day of January, and choose freeholders for each respective division, tribe or parish to be the deputies or representatives of the same: which body of representatives or the major part of them, shall, with the Governor and council aforesaid, be the General Assembly of the said Province, the Governor or his deputy being present, unless they shall wilfully refuse, in which case they may appoint themselves a president, during the absence of the Governor or the deputy Governor.

WHICH ASSEMBLY'S ARE TO HAVE POWER

First. To appoint their own time of meeting and to adjourn their sessions from time to time to such times and places as they shall think convenient; as also to ascertain the number of their quorum; provided that such numbers be not less than the third part of the whole, in whom (or more) shall be the full power of the General Assembly.

II. To enact and make all such laws, acts and constitutions as shall be necessary for the well government of the said Province, and them

to repeal: provided, that the same be consonant to reason, and as near as may be conveniently agreeable to the laws and customs of his majesty's kingdom of England: *provided also*, that they be not against the interest of us the Lords Proprietors, our heirs or assigns, nor any of those our concessions, especially that they be not repugnant to the article for liberty of conscience above-mentioned: which laws so made shall receive publication from the Governor and council (but as the laws of us and our General Assembly) and be in force for the space of one year and no more, unless contradicted by the Lords Proprietors, within which time they are to be presented to us, our heirs, &c. for our ratification; and being confirmed by us, they shall be in continual force till expired by their own limitation, or by act of repeal in like manner to be passed (as aforesaid) and confirmed.

III. By act as aforesaid, to constitute all courts, together with the limits, powers and jurisdictions of the same; as also the several offices and number of officers belonging to each court, with their respective salaries, fees and perquisites; their appellations and dignities, with the penalties that shall be due to them, for the breach of their several and respective duties and trusts.

IV. By act as aforesaid, to lay equal taxes and assessments, equally to raise moneys or goods upon all lands (excepting the lands of us the Lords Proprietors before settling) or persons within the several precincts, hundreds, parishes, manors, or whatsoever other divisions shall hereafter be made and established in the said Province, as oft as necessity shall require, and in such manner as to them shall seem most equal and easy for the said inhabitants; in order to the better supporting of the publick charge of the said Government, and for the mutual safety, defence and security of the said Province.

V. By act as aforesaid, to erect within the said Province, such and so many manors, with their necessary courts, jurisdictions, freedoms, and privileges, as to them shall seem meet and convenient: As also to divide the said Province into hundreds, parishes, tribes, or such other divisions and districtions, as they shall think fit; and the said divisions to distinguish by what names we shall order or direct; and in default thereof, by such names as they please: As also in the said Province to create and appoint such and so many ports, harbours, creeks, and other places for the convenient lading and unlading of goods and merchandizes, out of ships, boats, and other vessels, as shall be expedient; with such jurisdictions, privileges and franchises to such ports, &c. belonging, as they shall judge most conducing to the general good of the said Plantation or Province.

VI. By their enacting to be confirm'd as aforesaid, to erect, raise and build within the said Province or any part thereof, such and so many forts, fortresses, castles, cities, corporations, boroughs, towns, villages, and other places of strength and defence; and them or any of them, to incorporate with such charters and privileges, as to them shall seem good, and the grant made unto us will permit; and the same or any of them to fortify and furnish with such provisions and proportion of ordnance, powder, shot, armour, and all other weapons, ammunition and abiliments of war, both offensive and defensive, as shall be thought necessary and convenient for the safety and welfare

of the said Province. But they may not at any time demolish, dismantle or disfurnish the same, without the consent of the Governor and the major part of the council of the said Province.

VII. By act (as aforesaid) to constitute train'd bands and companies, with the number of soldiers, for the safety, strength and defence of the said Province; and of the forts, castles, cities, &c. To suppress all mutinies and rebellions; to make war offensive and defensive with all Indians, strangers and foreigners, as they shall see cause; and to pursue an enemy as well by sea as by land, if need be, out of the limits and jurisdictions of the said Province, with the particular consent of the Governor, and under his conduct, or of our commander in chief, or whom he shall appoint.

VIII. By act (as aforesaid) to give to all strangers, as to them shall seem meet, a naturalization, and all such freedoms, and privileges within the said Province as to his majesty's subjects do of right belong, they swearing or subscribing as aforesaid; which said strangers, so naturalized and privileged, shall be in all respects accounted in the said Province, as the King's natural subjects.

IX. By act (as aforesaid) to prescribe the quantity of land which shall be from time to time, allotted to every head, free or servant, male or female, and to make and ordain rules for the casting of lots for land and the laying out of the same; *provided*, that they do not in their prescriptions exceed the several proportions which are hereby granted by us to all persons arriving in the said Province or adventuring thither.

X. The General Assembly by act, as aforesaid, shall make provision for the maintenance and support of the Governor, and for the defraying of all necessary charges for the government; as also that the constables of the said Province shall collect the Lord's rent, and shall pay the same to the receiver that the Lords shall appoint to receive the same; unless the General Assembly shall prescribe some other way whereby the Lords may have their rents duly collected, without charge or trouble to them.

XI. Lastly, to enact, constitute and ordain all such other laws and constitutions as shall or may be necessary for the good, prosperity and settlement of the said Province, excepting what by these presents is excepted, and conforming to the limitations herein expressed.

THE GOVERNOR IS WITH HIS COUNCIL BEFORE EXPRESS'D

First. To see that all courts establish'd by the laws of the General Assembly, and all ministers and officers, civil and military, do and execute their several duties and offices respectively, according to the laws in force; and to punish them for swerving from the laws, or acting contrary to their trust, as the nature of their offences shall require.

II. According to the constitution of the General Assembly, to nominate and commissionate, the several judges, members and officers of the courts, whether magistratical or ministerial and all other civil officers, coroners, &c. and their commissions, powers, and authority to revoke at pleasure: *provided*, that they appoint none but such as are freeholders in the Province aforesaid, unless the General Assembly consent.

III. According to the constitution of the General Assembly, to appoint courts and officers in cases criminal; and to impower them to inflict penalties upon offenders against any of the laws in force in the said Province, as the said laws shall ordain; whether by fine, imprisonment, banishment, corporal punishment, or to the taking away of member or life itself if there be cause for it.

IV. To place officers and soldiers for the safety, strength and defence of the forts, castles, cities &c. according to the number appointed by the General Assembly, to nominate, place and commissionate all military officers under the dignity of the said Governor, who is commissionated by us over the several train'd bands and companies, constituted by the General Assembly, as colonels, captains, &c. and their commissions to revoke at pleasure. The Governor with the advice of his Council, unless some present danger will not permit him, to advise to muster and train all forces within the said Province, to prosecute war, pursue an enemy, suppress all rebellions, and mutinies, as well by sea as land; and to exercise the whole militia, as fully as we by the grant from his Royal Highness can impower them to do: *Provided*, that they appoint no military forces but what are freeholders in the said Province, unless the General Assembly shall consent.

V. Where they see cause, after condemnation, to repreive until the case be presented, with a copy of the whole tryal, proceedings and proofs to the Lords, who will accordingly pardon or command execution of the sentence of the offender; who is in mean time to be kept in safe custody till the pleasure of the Lords be known.

VI. In case of death or other removal of any of the Representatives within the year, to issue summons by writ to the respective division or divisions, for which he or they were chosen, commanding the freeholders of the same to choose others in their stead.

VII. To make warrants and seal grants of lands, according to those our concessions and the prescriptions, by the advice of the General Assembly in such form as shall be at large set down in our instructions to the Governor in his commission, and which are hereafter express'd.

VIII. To act and do all other things that may conduce to the safety, peace and well-government of the said Province, as they shall see fit; so as they be not contrary to the laws of the said Province.

FOR THE BETTER SECURITY OF THE PROPRIETIES OF ALL THE INHABITANTS

First. They are not to impose nor suffer to be imposed, any tax, custom, subsidy, tallage, assessment, or any other duty whatsoever upon any colour or pretence, upon the said Province and inhabitants thereof, other than what shall be imposed by the authority and consent of the General Assembly, and then only in manner as aforesaid.

II. They are to take care, that lands quietly held, planted and possessed seven years, after its being duly survey'd by the Surveyor General, or his order, shall not be subject to any review, re-survey or alteration of bounders, on what pretence soever by any of us, or by any officer or minister under us.

III. They are to take care, that no man, if his cattle stray, range or graze on any ground within the said Province, not actually appropriated or set out to particular persons, shall be lyable to pay any trespass for the same, to us, our heirs or executors: *Provided*, that custom of commons be not thereby pretended to, nor any person hindered from taking up, and appropriating any lands so grazed upon: And that no person doth purposely suffer his cattle to graze on such lands.

AND THAT THE PLANTING OF THE SAID PROVINCE MAY BE THE MORE SPEEDILY PROMOTED

I. We do hereby grant unto all persons who have already adventured to the said Province of New Caesarea or New Jersey, or shall transport themselves, or servants, before the first day of January, which shall be in the year of our Lord one thousand six-hundred sixty-five, these following proportions, viz: To every freeman that shall go with the first Governor, from the port where he embarques, or shall meet him at the rendezvous he appoints, for the settlement of a plantation there, arm'd with a good musket, bore twelve bullets to the pound, with ten pounds of powder, and twenty pounds of bullets, with bandiliers and match convenient, and with six months provision for his own person arriving there, one hundred and fifty acres of land English measure; and for every able servant that he shall carry with him, arm'd and provided as aforesaid, and arriving there, the like quantity of one hundred and fifty acres English measure: And whosoever shall send servants at that time, shall have for every man servant he or she shall send, armed and provided as aforesaid, and arrive there, the like quantity of one hundred and fifty acres: And for every weaker servant, or slave, male or female, exceeding the age of fourteen years, which any one shall send or carry, arriving there, seventy-five acres of land: And for every Christian servant, exceeding the age aforesaid, after the expiration of their time of service, seventy-five acres of land for their own use.

II. ITEM. To every master or mistress that shall go before the first day of January, which shall be in the year one thousand six hundred sixty-five; one hundred and twenty acres of land. And for every able man servant, that he or she shall carry or send, arm'd and provided as aforesaid, and arriving within the time aforesaid, the like quantity of one hundred and twenty acres of land: And for every weaker servant or slave, male or female, exceeding the age of fourteen years, arriving there, sixty acres of land: And to every Christian servant to their own use and behoof sixty acres of land.

III. ITEM. To every free man and free woman that shall arrive in the said Province, arm'd and provided as aforesaid, within the second year, from the first day of January 1665 to the first day of January one thousand six hundred sixty-six, with an intention to plant, ninety acres of land English measure: And for every man servant that he or she shall carry or send, armed and provided as aforesaid, ninety acres of land of like measure.

IV. ITEM. For every weaker servant or slave, aged as aforesaid, that shall be so carried or sent thither within the second year, as

aforesaid, forty-five acres of land of like measure: And to every Christian servant that shall arrive the second year, forty-five acres of land of like measure, after the expiration of his or their time of service, for their own use and behoof.

V. ITEM. To every free man and free woman, armed and provided as aforesaid, that shall go and arrive with an intention to plant, within the third year from January 1666 to January 1667, armed and provided as aforesaid, threescore acres of land of like measure: And for every able man servant, that he or she shall carry or send within the said time, armed and provided as aforesaid, the like quantity of threescore acres of land. And for every weaker servant or slave, aged as aforesaid, that he or she shall carry or send within the third year, thirty acres of land: And to every Christian servant so carried or sent in the third year, thirty acres of land of like measure, after the expiration of their time of service. All which land, and all other that shall be possessed in the said Province, are to be held on the same terms and conditions as is before mentioned, and as hereafter in the following paragraphs is more at large express'd. *Provided always*, that the before mentioned land and all other whatsoever, that shall be taken up and so settled in the said Province, shall afterward from time to time for the space of thirteen years from the date hereof, be held upon the conditions aforesaid, continuing one able man servant or two such weaker servants as aforesaid, on every hundred acres a master or mistress shall possess, besides what was granted for his or her own person: In failure of which upon other disposure to the present occupant, or his assigns, there shall be three years given to such for their compleating the said number of persons, or for their sale or dispositions of such part of their lands as are not so people'd within such time of three years. If any such person holding any land shall fail by himself his agents, executors or assigns, or some other way to provide such number of persons, unless the General Assembly shall without respect to poverty, judge it was impossible for the party so failing, to keep or procure his or her number of servants to be provided as aforesaid; in such case we the Lords to have power of disposing of so much of such land as shall not be planted with its due number of persons as aforesaid, to some others that will plant the same. *Provided always*, That no person arriving in the said Province, with purpose to settle (they being subjects or naturalized as aforesaid) be denied a grant of such proportions of land as at the time of their arrival that are due to themselves or servants, by concession from us as aforesaid; but have full licence to take up and settle the same, in such order and manner as is granted or prescrib'd. All lands (notwithstanding the powers in the Assembly aforesaid) shall be taken up by warrant from the Governor, and confirm'd by the Governor and Council, under a seal to be provided for that purpose, in such order and method as shall be set down in this declaration, and more at large in the instruction to the Governors, and Council.

AND THAT THE LANDS MAY BE THE MORE REGULARLY LAID OUT AND ALL PERSONS THE BETTER ASCERTAIN'D OF THEIR TITLE AND POSSESSION

I. The Governor and Council and General Assembly (if any be) are to take care and direct, that all lands be divided by general lots,

none less than two thousand one hundred acres, nor more than twenty one thousand acres in each lot, excepting cities, towns, &c. and the near lots of townships; and that the same be divided into seven parts, one seventh part to us, our heirs and assigns; the remainder to persons as they come to plant the same, in such proportions as is allowed.

II. Item. That the Governor, or whom he shall depute, in case of death or absence, if some be not before commissionated by us as aforesaid, do give to every person to whom land is due, a warrant sign'd and seal'd by himself, and the major part of his Council, and directed to the Surveyor General, or his deputy, commanding him to lay out, limit and bound acres of land, as his due proportion, is for such a person, in such allotment, according to the warrant; the Register having first recorded the same, and attested the record upon warrant; The Surveyor General, or his deputy, shall proceed and certify to the chief Secretary or Register, the name of the person for whom he hath laid out land, by virtue of what authority, the date of the authority or warrant, the number of acres, the bounds, and on what point of the compass the several limits thereof lye; which certificate the Register is likewise to enter in a book to be prepared for that purpose, with an alphebettical table, referring to the book, that so the certificate may be the easier found; and then to file the certificates, and the same to keep safely: The certificate being entered, a warrant comprehending all the particulars of land mentioned in the certificate aforesaid, is to be signed and sealed by him and his Council, or the major part of them as aforesaid, they having seen the entry and directed to the Register or chief Secretary for his preparing a grant of the land to the party for whom it is laid out, which grant shall be in the form following, viz.

The Lords proprietors of the Province of New Caesarea or New Jersey, do hereby grant unto A. B. of the in the Province aforesaid, a plantation containing acres English measure, bounded (as in the certificate) to hold to him or her, his or her heirs or assigns for ever, yielding and paying yearly to the said Lords Proprietors, their heirs or assigns, every fifth and twentieth day of March, according to the English account, one halfpenny of lawful money of England, for every of the said acres, to be holden of the manner of East-Greenwich, in free and common soccage; the first payment of which rent to begin the five and twentieth day of March, which shall be in the year of our Lord one thousand six hundred and seventy, according to the English account. Given under the seal of the said province the day of in the year of our Lord 166

To which instrument the Governor or his deputy hath hereby full power to put the seal of the said Province, and to subscribe his name, as also the Council, or the major part of them, are to subscribe their names; and then the instrument or grant is to be by the Register recorded in a book of records for that purpose; all which being done according to those instructions we hereby declare, that the same shall be effectual in law for the enjoyment of the said plantation, and all the benefits and profits and in the same (except the half part of mines of gold and silver) paying the rents as aforesaid: *Provided*, that if any plantation so granted, shall by the space of three years be neglected to be planted with a sufficient number of servants, as is before mentioned, that then it shall be lawful for us

otherwise to dispose thereof, in whole or in part, this grant notwithstanding.

III. Item. We do also grant convenient proportions of land for highways and for streets, not exceeding one hundred foot in breadth in cities, towns and vilages, &c. and for churches, forts, wharfs, kays, harbours and for publick houses; and to each parish for the use of their ministers two hundred acres, in such places as the General Assembly shall appoint.

IV. Item. The Governor is to take notice, that all such lands laid out for the uses and purposes aforesaid, in the next preceeding article, shall be free and exempt from all rents, taxes and other charges and duties whatsoever, payable to us, our heirs or assigns.

V. Item. That in laying out lands for cities, towns, vilages, boroughs, or other hamblets, the said lands be divided into seven parts; one seventh part whereof to be by lot laid out for us, and the rest divided to such as shall be willing to build thereon, they paying after the rate of one penny or half-penny per acre (according to the value of the land) yearly to us, as for their other lands as aforesaid; which said lands in cities, towns, &c. is to be assured to each possessor by the same way and instrument as is before mentioned.

IV. Item. That all rules relating to the building of each street, or quantity of ground to be allotted to each house within the said respective cities, boroughs and towns, be wholly left by act as aforesaid, to the wisdom and discretion of the General Assembly.

VII. Item. That the inhabitants of the said Province have free passage thro' or by any seas, bounds, creeks, rivers or rivelets, &c. in the said Province, thro' or by which they must necessarily pass to come from the main ocean to any part of the Province aforesaid.

VIII. Lastly. It shall be lawful for the representatives of the Freeholders, to make any address to the Lords touching the Governor and Council, or any of them, or concerning any grievances whatsoever, or for any other thing they shall desire, without the consent of the Governor and Council, or any of them. Given under our seal of our said Province the tenth day of February in the year of our Lord one thousand six hundred sixty and four.

John Berkley,
G. Carteret.

A DECLARATION OF THE TRUE INTENT AND MEANING OF US THE LORDS PROPRIETORS, AND EXPLANATION OF THERE CONCESSIONS MADE TO THE ADVENTURERS AND PLANTERS OF NEW CAESAREA OR NEW JERSEY—1672 [a]

Leaming & Spicer 2d Ed. pp. 32–34.

I. That as to the 6th Article, it shall be in the power of the Governor and his Council to admit of all persons to become planters and free men of the said Province, without the General Assembly; but no person or persons whatsoever shall be counted a freeholder of the said Province, nor have any vote in electing, nor be capable of being elected

[a] Verified by "Grants and Concessions of New Jersey."

for any office or trust, either civil or military, until he doth actually hold his or their lands by patent from us, the Lords proprietors.

II. As to the 8th article, it shall be in the power of the Governor and Council, to constitute and appoint such ministers and preachers as shall be nominated and chosen by the several corporations, without the General Assembly, and to establish their maintenance, giving liberty besides to any person or persons to keep and maintain what preachers or ministers they please.

AS TO THE GENERAL ASSEMBLY

I. That is shall be in the power of the Governor and his Council to appoint the times and places of meeting of the General Assembly, and to adjourn and summon them together again when and where he and they shall see cause.

II. To the third; that it is to be understood, that it is in the power of the Governor and his Council to constitute and appoint courts in particular corporations already settled, without the General Assembly; but for the courts of sessions and assizes to be constituted and established by the Governor Council and representatives together: and that all appeals, shall be made from the assizes, to the Governor and his Council, and thence to the Lords proprietors; from whom they may appeal to the king, and that no more corporations be confirm'd but by or with the special order of us the Lords proprietors.

III. To the ninth article: that the Governor and his Council may dispose of the allotments of land to each particular person, without the General Assembly according to our directions, as he and they shall think fit.

CONCERNING THE GOVERNOR

I. As to the second and third article; all officers civil and military (except before excepted) be nominated and appointed by the Governor and Council, without the General Assembly, unless he the said Governor and Council shall see occasion for their advice and assistance.

II. As to the fourth article, in case of foreign invasion or intestine mutiny or rebellion; it shall be lawful for the Governor and his Council to call in to their aid, any persons whatsoever whether freeholder or not.

III. That in the sixth article, concerning the regular laying out of lands; rules for building each street in townships, and quantities of ground for each house lot, the same is left to the freeholders or first undertakers thereof, as they can agree with the Governor and Council, and not to the General Assembly, but to be laid out by the surveyor general.

IV. That all warrants for lands not exceeding the proportions in the concessions, being only sign'd by the Governor and Secretary shall be effectual in case his Council or any part of them be not present.

We the Lords proprietors do understand that in all General Assembly's, the Governor and his Council are to set by themselves, and

the deputies or representatives by themselves, and whatever they do propose to be presented to the Governor and his Council, and upon their confirmation to pass for an act or law when confirm'd by us. Witness our hands and seals the 6th day of December, 1672.

JOHN BERKLEY,
G. CARTERET.

HIS ROYAL HIGHNESS'S GRANT TO THE LORDS PROPRIETORS, SIR GEORGE CARTERET, 29TH JULY, 1674 [a]

This Indenture made the ninth and twentieth day of July, in the twenty and sixth year of the reign of our Sovereign Lord, Charles the Second, by the grace of God of England, Scotland, France and Ireland, King, Defender of the Faith, &c. Anno Domini, one thousand six hundred seventy-four. Albany, Earl of Ulster, Lord High Admiral of Scotland and Ireland, of the one part, and Sir George Carteret of Saltrum in the County of Devon, Knight, Vice Chamberlain of his Majesty's household of the other part. WHEREAS his Majesty King Charles the Second, by his Letters Patent, under the Great Seal of England, bearing date the twenty-ninth day of June, in the twenty-sixth year of his said Majesty's reign, did for the consideration therein mentioned, give and grant unto his said Royal Highness James Duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix next adjoining to New Scotland, in America; and from thence extending along the sea coast unto a certain place called Pemaquine or Pemaquid, and so up the river thereof to the furthest head of the same as it tendeth northward; and extending from thence to the river Kenebeque, and so upwards by the shortest course to the same commonly called by the several name or names of Mattowacks or Long Island, situate and being towards the west of Cape Codd and the Narrow Higansetts, abutting upon the main land between the two rivers there, called or known by the several names of Connecticutt, and Hudson's river; together also with the said river called Hudson's river, and all the lands from the west side of Connecticutt river to the east side of Delaware bay: And also several other islands and lands, in the said Letters Patent mentioned, together with the rivers, harbors, mines, minerals, quarries, woods, marshes, waters, fishing, hawking, hunting, and fowling, and all other royalties, proffits, commodities and hereditaments to the said several islands, lands and premises belonging or appertaining, to have and to hold the said lands, islands, hereditaments and premises, with their and every of their appurtenances, unto his said Royal Highness James Duke of York, his heirs and assigns for ever; to be holden of his said Majesty, his heirs and successors as of the manner of East Greenwich in the County of Kent, in free and common soccage, yielding and paying to his said Majesty his heirs and successors of and for the same, yearly and every year, forty beaver skins, when they shall be demanded, or within ninety days after; with divers other grants, clauses, provisoes, and agreements in the said

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer. 2d Ed. pp. 46–48.

recited Letters Patents contain'd, as by the said Letters Patents, relation being thereunto had, it doth and may more plainly appear. Now this indenture witnesseth, that his said Royal Highness James Duke of York, for and in consideration of a competent sum of good and lawful money of England to his Royal Highness in hand paid by the said Sir George Carteret, before the ensealing and delivery of these presents, the receipt whereof his said Royal Highness James Duke of York, doth hereby acknowledge, and thereof doth acquit and discharge the said Sir George Carteret, his heirs and assigns for ever by these presents, hath granted, bargained, sold, released and confirmed, and by these presents doth grant, bargain, sell, release and confirm unto the said Sir George Carteret, his heirs and assigns for ever, all that tract of land adjacent to New England, and lying and being to the westward of Long Island and Manhitas Island, and bounded on the east part by the main sea, and part by Hudson's river, and extends southward as far as a certain creek called Barnegatt, being about the middle, between Sandy Point and Cape May, and bounded on the west in a strait line from the said creek called Barnegat, to a certain Creek in Delaware river, next adjoining to and below a certain creek in Delaware river called Renkokus Kill, and from thence up the said Delaware river to the northermost branch thereof, which is forty-one degrees and forty minutes of latitude; and on the north, crosseth over thence in a strait line to Hudson's river, in forty-one degrees of latitude; which said tract of land is hereafter to be called by the name or names of New Caeserea or New Jersey: And also all rivers, mines, minerals, woods, fishings, hawking, hunting, and fowling, and all royalties, proffits, commodities, and hereditaments whatsoever, to the said lands, and premises belonging or appertaining; with their and every of their appurtenances, in as full and ample manner as the same is granted unto the said James Duke of York, by the before recited Letters Patents; and all the estate, right, title, interest benefit, advantage, claim and demand of the said James Duke of York of in and to the said lands and premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders thereof: All which said tract of land and premises were by indenture, bearing date the day before the date hereof, bargain'd and sold by the said James Duke of York, unto Sir George Carteret, for the term of one whole year to commence from the eighth and twentieth day of July next before the date hereof, under the rent of one peper corn, payable as therein is mentioned as by the said deed more plainly may appear: By force and virtue of which said indenture of bargain and sale, and of the statute made for transferring of usses into possession, the said Sir George Carteret, is in actual possession of the said tract of land and premises, and enabled to take a grant and release thereof, the said lease being made to that end and purpose, to have and to hold all and singular the said tract of land and premises; with their, and every of their appurtenances, and every part and parcel thereof, unto the said Sir George Carteret, his heirs and assigns to the only behoof of the said Sir George Carteret his heirs and assigns for ever; yielding and paying therefore unto the said James Duke of York, his heirs and assigns, for the tract of land and premises, yearly the sum of twenty nobles of lawful money of England, if the same shall be lawfully demanded at or in the

Inner Temple Hall, London, at the feast of St. Michael the Arch Angel yearly. And the said Sir George Carteret for himself, his heirs, and assigns, doth covenant and grant to and with the said James Duke of York, his heirs and assigns by these presents, that he the said Sir George Carteret, his heirs and assigns, shall and will well and truly pay or cause to be paid unto his said Royal Hiness James Duke of York, his heirs and assigns, the said yearly rent of twenty nobles at such time and place, and in such manner and form as before in these presents is express'd and declared. *Provided* always and upon this condition, that the said Sir George Carteret do cause a copy of this grant and demise to be entered with the auditor of his said Royal Highness, within one month next after the execution of this present grant and demise. IN WITNESS WHEREOF the parties to these presents have interchangeably set their hands and seals, the day and year first above written. Sign'd.

JAMES.

THE CHARTER OR FUNDAMENTAL LAWS, OF WEST NEW JERSEY, AGREED UPON—1676 [a]

CHAPTER XIII

THAT THESE FOLLOWING CONCESSIONS ARE THE COMMON LAW, OR FUNDAMENTAL RIGHTS, OF THE PROVINCE OF WEST NEW JERSEY

That the common law or fundamental rights and priviledges of West New Jersey, are individually agreed upon by the Proprietors and freeholders thereof, to be the foundation of the government, which is not to be altered by the Legislative authority, or free Assembly hereafter mentioned and constituted, but that the said Legislative authority is constituted according to these fundamentals, to make such laws as agree with, and maintain the said fundamentals, and to make no laws that in the least contradict, differ or vary from the said fundamentals, under what pretence or alligation soever.

CHAPTER XIV

But if it so happen that any person or persons of the said General Assembly, shall therein designedly, willfully, and maliciously, move or excite any to move, any matter or thing whatsoever, that contradicts or any ways subverts, any fundamentals of the said laws in the Constitution of the government of this Province, it being proved by seven honest and reputable persons, he or they shall be proceeded against as traitors to the said government.

CHAPTER XV

That these Concessions, law or great charter of fundamentals, be recorded in a fair table, in the Assembly House, and that they be read at the beginning and dissolving of every general free Assembly: And it is further agreed and ordained, that the said Concessions,

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer. 2d Ed. pp. 393–398.

common law, or great charter of fundamentals, be writ in fair tables, in every common hall of justice within this Province, and that they be read in solemn manner four times every year, in the presence of the people, by the chief magistrates of those places.

Chapter XVI

That no men, nor number of men upon earth, hath power or authority to rule over men's consciences in religious matters, therefore it is consented, agreed and ordained, that no person or persons whatsoever within the said Province, at any time or times hereafter, shall be any ways upon any pretence whatsoever, called in question, or in the least punished or hurt, either in person, estate, or priviledge, for the sake of his opinion, judgment, faith or worship towards God in matters of religion. But that all and every such person, and persons, may from time to time, and at all times, freely and fully have, and enjoy his and their judgments, and the exercises of their consciences in matters of religious worship throughout all the said Province.

Chapter XVII

That no Proprietor, freeholder or inhabitant of the said Province of West New Jersey, shall be deprived or condemned of life, limb, liberty, estate, property or any ways hurt in his or their privileges, freedoms or franchises, upon any account whatsoever, without a due tryal, and judgment passed by twelve good and lawful men of his neighborhood first had: And that in all causes to be tryed, and in all tryals, the person or persons, arraigned may except against any of the said neghborhood, without any reason rendered, (not exceeding thirty five) and in case of any valid reason alleged, against every person nominated for that service.

Chapter XVIII

And that no Proprietor, freeholder, freedenison, or inhabitant in the said Province, shall be attached, arrested, or imprisoned, for or by reason of any debt, duty, or thing whatsoever (cases felonious, criminal and treasonable excepted) before he or she have personal summon or summons, left at his or her last dwelling place, if in the said Province, by some legal authorized officer, constituted and appointed for that purpose, to appear in some court of judicature for the said Province, with a full and plain account of the cause or thing in demand, as also the name or names of the person or persons at whose suit, and the court where he is to appear, and that he hath at least fourteen days time to appear and answer the said suit, if he or she live or inhabit within forty miles English of the said court, and if at a further distance, to have for every twenty miles, two days time more, for his and their appearance, and so proportionably for a larger distance of place.

That upon the recording of the summons, and non-appearance of such person and persons, a writ or attachment shall or may be issued out to arrest, or attach the person or persons of such defaulters, to cause his or their appearance in such court, returnable at a day certain, to answer the penalty or penalties, in such suit or suits; and if

he or they shall be condemned by legal tryal and judgment, the penalty or penalties shall be paid and satisfied out of his or their real or personal estate so condemned, or cause the person or persons so condemned, to lie in execution till satisfaction of the debt and damages be made. *Provided always*, if such person or persons so condemned, shall pay and deliver such estate, goods, and chattles which he or any other person hath for his or their use, and shall solemnly declare and aver, that he or they have not any further estate, goods or chattles wheresoever to satisfy the person or persons, (at whose suit, he or they are condemned) their respective judgments, and shall also bring and produce three other persons as compurgators, who are well known and of honest reputation, and approved of by the commissioners of that division, where they dwell or inhabit, which shall in such open court, likewise solemnly declare and aver, that they believe in their consciences, such person and persons so condemned, have not werewith further to pay the said condemnation or condemnations, he or they shall be thence forthwith discharged from their said imprisonment, any law or custom to the contrary thereof, heretofore in the said Province, notwithstanding. And upon such summons and default of appearance, recorded as aforesaid, and such person and persons not appearing within forty days after, it shall and may be lawful for such court of judicature to proceed to tryal, of twelve lawful men to judgment, against such defaulters, and issue forth execution against his or their estate, real and personal, to satisfy such penalty or penalties, to such debt and damages so recorded, as far as it shall or may extend.

Chapter XIX

That there shall be in every court, three justices or commissioners, who shall sit with the twelve men of the neighborhood, with them to hear all causes, and to assist the said twelve men of the neighborhood in case of law; and that they the said justices shall pronounce such judgment as they shall receive from, and be directed by the said twelve men in whom only the judgment resides, and not otherwise.

And in case of their neglect and refusal, that then one of the twelve, by consent of the rest, pronounce their own judgment as the justices should have done.

And if any judgment shall be past, in any case civil or criminal, by any other person or persons, or any other way, then according to this agreement and appointment, it shall be held null and void, and such person or persons so presuming to give judgment, shall be severely fin'd, and upon complaint made to the General Assembly, by them be declared incapable of any office or trust within this Province.

Chapter XX

That in all matters and causes, civil and criminal, proof is to be made by the solemn and plain averment, of at least two honest and reputable persons; and in case that any person or persons shall bear false witness, and bring in his or their evidence, contrary to the truth of the matter as shall be made plainly to appear, that then every such person or persons, shall in civil causes, suffer the penalty which would be due to the person or persons he or they bear witness against. And in case any witness or witnesses, on the behalf of any

person or persons, indicted in a criminal cause, shall be found to have borne false witness for fear, gain, malice or favour, and thereby hinder the due execution of the law, and deprive the suffering person or persons of their due satisfaction, that then and in all other cases of false evidence, such person or persons, shall be first severely fined, and next that he or they shall forever be disabled from being admitted in evidence, or into any public office, employment, or service within this Province.

Chapter XXI

That all and every person and persons whatsoever, who shall prosecute or prefer any indictment or information against others for any personal injuries, or matter criminal, or shall prosecute for any other criminal cause, (treason, murther, and felony, only excepted) shall and may be master of his own process, and have full power to forgive and remit the person or persons offending against him or herself only, as well before as after judgment, and condemnation, and pardon and remit the sentence, fine and punishment of the person or persons offending, be it personal or other whatsoever.

Chapter XXII

That the tryals of all causes, civil and criminal, shall be heard and decided by the virdict or judgment of twelve honest men of the neighborhood, only to be summoned and presented by the sheriff of that division, or propriety where the fact or trespass is committed; and that no person or persons shall be compelled to fee any attorney or councillor to plead his cause, but that all persons have free liberty to plead his own cause, if he please: And that no person nor persons imprisoned upon any account whatsoever within this Province, shall be obliged to pay any fees to the officer or officers of the said prison, either when committed or discharged.

Chapter XXIII

That in all publick courts of justice for tryals of causes, civil or criminal, any person or persons, inhabitants of the said Province may freely come into, and attend the said courts, and hear and be present, at all or any such tryals as shall be there had or passed, that justice may not be done in a corner nor in any covert manner, being intended and resolved, by the help of the Lord, and by these our Concessions and Fundamentals, that all and every person and persons inhabiting the said Province, shall, as far as in us lies, be free from oppression and slavery.

QUINTIPARTITE DEED OF REVISION, BETWEEN E. AND W. JERSEY: JULY 1st, 1676[a]

This indenture, quintipartite, made the first day of July, Anno Domini 1676, and in the eighth and twentieth year of the reign of our sovereign Lord King Charles, the Second, over England, &c.

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer. 2d Ed. pp. 61–72.

Between Sir George Carteret, of Saltrum, in the County of Devon, knight and baronet, and one of his Majesty's most honourable privy Council, of the first part: William Penn of Ricksmansworth, in the county of Hertford, Esq; of the second part: Gawn Lawry of London, merchant, of the third part: Nicholas Lucas of Hertford, in the county of Hertford, malster, of the fourth part: and Edward Billinge of Wisminster, in the county of Middlesex, gent. of the fifth part. Whereas our said Sovereign Lord the king's Majesty, in and by his Letters Patents under the great seal of England bearing date the twelfth day of March, in the sixteenth year of his said Majesty's reign, for the consideration therein mentioned, did give and grant unto his dearest brother James, Duke of York, his heirs and assigns all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix, next adjoining to New Scotland, in America; and from thence extending along the sea coast to a certain place called Pemaquine or Pemaquid, and so up the river to the furthest head of the same as it tendeth northward; and extending from thence to the river of Kenebeque, and so upwards to the river Canada northward. And also all that island or islands commonly called by the several name or names of Matowacks or Long Island, situate and being towards the west of Cape Codd and the Narrow Higansetts, abutting upon the main land between the two rivers there, commonly called or known by the several names of Connecticutt, and Hudson's river; together also with the said river called Hudson's river, and all the lands from the west side of Connecticutt river to the east side of Delaware bay: and also all those several islands called or known by the names of Martin's Vineyard or Nantukes, otherwise Nantucket; together with all the lands, islands, soils, rivers, harbours, mines, minerals, quarries, woods, marshes, waters, lakes, fishing, hawking, hunting, and fowling, and all other royalties, proffits, commodities and hereditaments to the said several islands, lands and premises belonging and appertaining, with their and every of their appurtenances; and all his said Majesty's estate, right title, and interest, benefit, advantage, claim and demand of, in, or to the said land and premises, or any part thereof; and the reversion and reversions, remainder and remainders; together with the yearly and other rents, revenues, and profits of all and singular the said premisses, and every part and parcel thereof; to have and to hold unto his said Majesty's said dear brother, the said James Duke of York, his heirs and assigns for ever; to be holden of the King's Majesty, his heirs and successors, as of his majesty's mannor of East Greenwich, in his Majesty's county of Kent, in free and common soccage, and not in capite or by knight service, under the yearly rent of forty beaver skins, to be paid unto his said Majesty his heirs and successors, when they shall be demanded, or within ninety days after, as by the said Letters Patent, relation being thereunto had, it may appear: in and by which said Letters Patent his said Majesty did likewise give and grant unto his said dearest brother James Duke of York, his heirs, deputies, agents, commissioners and assigns, full and absolute power and authority for the correcting, punishing, pardoning, governing and ruling such of the subjects of his said Majesty, of his heirs and successors, as shall at any time adventure themselves into the said port and places, or inhabit there, according to such laws, orders, ordinances, directions and instructions, as by his said Majesty's said

dearest brother, or his assigns, shall be established; and in defect thereof, in case of necessity, according to the good discretions of his deputies, commissioners, officers or assigns respectively, as well in all causes and matters capital and criminal, as civil, both marine and others, in such manner, and under such restrictions as is therein specified; and to do, exercise and execute all and every others the powers and authorities therein mentioned, as by the same Letters Patent, and by the several powers and authorities thereby given and granted, and therein specified, it doth and may appear. *And whereas* in and by two several indentures, the one being an indenture of bargain and sale for the term of one whole year, and bearing date the three and twentieth day of June, Anno Domini 1664: and the other being an indenture of grant, release or confirmation, and bearing date the four and twentieth day of the same month of June, Anno Domini 1664, and both of them made between his said Majesty's said dearest brother, the said James Duke of York by the name of his Royal Highness James Duke of York and Albany, Earl of Ulster, Lord High Admiral of England and Ireland, Constable of Dover Castle, Lord Warden of the Cinque Forts, and Governor of Portsmouth, of the one part: John Lord Berkley, Baron of Stratton, and one of his Majesty's most honourable Privy Council, and Sir George Carteret of the other part: And by other good and sufficient conveyances and assurances in the law duly executed, reciting the said Letters Patents herein before recited, and the several and respective premises thereby granted; his Royal Highness he the said James Duke of York, for the considerations therein mentioned, did grant, convey and assure to John Lord Berkley and Sir George Carteret, their heirs and assigns forever, all that tract of land adjacent to New England, and lying and being to the westward of Long Island and Manhatan Island, part of the said main land of New England, beginning at St. Croix, mentioned to be granted to his said Royal Highness by the said therein and herein before recited Letters Patent, bounded on the east, part by the main sea and part by Hudson's river; and hath upon the west Delaware bay or river, and extendeth southward to the main ocean as far as Cape May at the mouth of Delaware bay and to the northward as far as the northermost branch of the said bay or river of Delaware, which is in forty one degrees and forty minutes of lattitude, and crosseth over thence in a strait line to Hudson's river in forty one degrees of lattitude; which said tract of land was then afterwards to be called by the name or names of New Caesarea or New Jersey; and also all rivers, mines, minerals, woods, fishings, hawkings, huntings, and fowlings, and all other royalties, profits, commodities and hereditaments whatsoever to the said land and premises belonging, or in anywise appertaining, with their and every of their appurtenances, in as full and ample manner as the same was or were granted to his said Royal Highness the said Duke of York, in and by the said therein and herein before recited Letters Patents; and all the estate, right, title, interest, benefit, advantage, claim and demand of the said James Duke of York, of, in, or to the said lands and premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders thereof, to have and to hold unto the said John Lord Berkeley and Sir George Carteret, their heirs and assigns for ever, under the yearly rent or sum of twenty nobles, payable unto his said Royal Highness the said James Duke of York, in manner as the same is

aforesaid therein to be paid, as in and by the said last recited indentures and conveyances, relation being thereunto had, may appear. *And whereas* in and by one certain indenture of bargain and sale dated the eighteenth day of March Anno Domini 1673, and in the six and twentieth year of his said Majesty's reign, made between the said John Lord Berkeley of the one part, and John Fenwick, of Binfield, in the county of Berks, Esq; of the other part, and duly enrolled in his Majesty's High Court of Chancery in England, reciting the said herein before recited Letters Patents, indentures and conveyances, the said John Lord Berkeley for and in consideration of the sum of one thousand pounds therein mentioned, to have been paid unto him by the said John Fenwick, and for other the consideration therein mentioned, did grant, bargain, sell and convey unto the said John Fenwick, his heirs and assigns, all that the moiety or half part of him the said John Berkeley of and in the said tract of land and premises so to be or then called by the names of New Caesarea or New Jersey: And also all that his moiety or half part of all rivers, rivelets, mines, minerals, quarries, woods, fishings, hawkings, huntings, fowlings, and all other royalties, profits, forts, franchises, liberties, governments, powers, priviledges, commodities, hereditaments and immunities whatsoever, to the said land and premises belonging; with their and every of their appurtenances, in as full, ample and beneficial manner to all intents and purposes as the same was granted to the said John Lord Berkley and the said Sir George Carteret, their heirs and assigns, by him his said Royal Highness the said James Duke of York, and all the estate, right, title interest, benefit, property, claim and demand whatsoever, unto the said John Lord Berkeley, of, in, or to the said moiety or half part of the said lands and premises or any part or parcel thereof, by force, virtue or means of the said therein and herein before recited Letters Patents or conveyances, or either or any of them, or otherwise, howsoever, and the reversion and reversions, remainder and remainders of the same, to have and to hold unto the said John Fenwick, his heirs and assigns forever, to the only use and behoof of the said John Fenwick his heirs and assigns forever, as by the said last recited indentures of bargain and sale, relation being thereunto had, it may appear. *And whereas* in and by two other indentures, the one being an indenture of bargain and sale for the term of one whole year, and bearing date the ninth day of February which was in the year of our Lord 1674, and made between the said John Fenwick and Edward Billinge, of the one part, and the said William Penn, Gawn Lawry and Nicholas Lucas of the other part. And the other being an indenture tripartite of grant, release or confirmation, bearing date the tenth day of the same month of February, Anno Domini 1674, and made between the said John Fenwick of the first part: The said Edward Billinge of the second part: And the said William Penn, Gawn Lawry, and Nicholas Lucas of the third part; and by several other good and sufficient conveyances and assurances in the law duly executed, the said moiety or half part of the said tract of land, and the said moiety or half part of all and every other the said several and respective premises so convey'd unto the said John Fenwick as aforesaid, with all and every the right, members and appurtenances of the same, were convey'd unto, and remains now vested in the said William Penn, Gawn Lawry and Nicholas

Lucas, and their heirs, to the use of them and their heirs and assigns for ever, (in which nevertheless the said Edward Billinge, claimeth to have equitable interest) so as the said William Penn, Gawn Lawry and Nicholas Lucas, do now actually stand seized of, and in one undivided moiety or half part of all and every the said premises so granted unto the said John Lord Berkeley and Sir George Carteret as aforesaid, as jointenants between themselves; and do now hold the same to them and their heirs, as tenants in common with the said Sir George Carteret, who is now actually seiz'd of the other undivided moiety or half part of all and every the same premises, and doth now hold the same to him and his heirs as tenant in common with the said William Penn, Gawn Lawry, and Nicholas Lucas. *And Whereas* they the said Sir George Carteret, William Penn, Gawn Lawry, Nicholas Lucas and Edward Billinge; have agreed to make a partition between them of the said tract of land, and of the said several and respective premises whereof they now stand so seized as tenants in common as aforesaid, and it hath been agreed between them, that the said Sir George Carteret shall have for his share and part of the said tract of land, and of the said several and respective premises to be holden by him the said Sir George Carteret his heirs and assigns for ever, in severalty as his lawful and equal part, share and proportion tract of land, and of all and every the said several and respective premises, and to be from henceforth called, known and distinguish'd by the name of East New Jersey, all that easterly part, share and portion of the said tract of land and premises, lying on the east side and eastward of a strait and direct line drawn thro' the said premises from north to south, from the dividing and making a partition or separation of the said eastern part, share and portion from the westerly part, share and portion of the same tract of land and premises, as is herein after particularly described. And that the said William Penn, Gawn Lawrie, and Nicholas Lucas, shall have their share and part of the said tract of land, and of the said several and respective premises to be holden by them the said William Penn, Gawn Lawry, and Nicholas Lucas, their heirs and assigns, in severalty as their full and equal part, share and portion of the said tract of land; and all and every the said several and respective premises, subject to the same trust for the benefit of the said Edward Billinge, as the said undivided moiety was subject, and to be from henceforth called and distinguished by the name of West New Jersey, all that westerly part, share and portion of the said tract of land and premisses, lying on the west side and westward of the aforesaid strait and direct line drawn thro' the said premises from north to south as aforesaid, as is hereafter also particularly described. Now these presents witness, that in pursuance and performance of the said before recited agreement, and for the better perfecting of the said conditions are agreed to be made as aforesaid; and for and in consideration of five shillings to them the said William Penn, Gawn Lawry, Nicholas Lucas and Edward Billinge in hand paid by the said Sir George Carteret, the receipt whereof they do hereby respectively acknowledge, the said Edward Billinge and they the said William Penn, Gawn Lawry and Nicholas Lucas, by and with the consent, direction and appointment of the said Edward Billinge, testified by his being a party hereunto, and by his sealing and executing of these presents,

have and each of them hath bargained, sold, released, and confirmed and conveyed; and do, and each of them doth, bargain, sell, release, confirm and convey unto the said Sir George Carteret his heirs and assigns forever, all that easterly part, share and portion, and all those easterly parts, shares and portions of the said tract of land and premises so granted and conveyed by his said Royal Highness the said James Duke of York, unto the said John Lord Berkeley and Sir George Carteret as aforesaid, extending eastward and northward along the sea coast and the said river called Hudson's river, from the east side of a certain place or harbour lying on the southern part of the same tract of land, and commonly called or known in a map of the said tract of land, by the name of Little Egg Harbour, to that part of the said river called Hudson's river, which is in forty-one degrees of latitude, being the furthermost part of the said tract of land and premises which is bounded by the said river, and crossing over from thence in a strait line, extending from that part of Hudson's river aforesaid to the northermost branch, or part of the before mentioned river called Delaware river, and to the most northerly point or boundary of the said tract of land and premises, so granted by his said Royal Highness James Duke of York, unto the said Lord Berkely and Sir George Carteret, now by the consent and agreement of the said parties to these presents, called and agreed to be called the north partition point, and from thence, that is to say, from the said north partition point extending southward by a strait and direct line, drawn from the north partition southward, thro' the said tract of land, unto the most southwardly point of the east side of Little Egg Harbour aforesaid; which said most southwardly point of the east side of Little Egg Harbour is now by the consent and agreement of the said parties to these presents, called and agreed to be from henceforth called, the south partition point: and which said strait and direct line drawn from the said north partition point, thro' the said tract of land, unto the said south partition point, is now by the consent and agreement of the said parties to these presents, called and agreed to be called, the line of partition, which is the line herein before mentioned to be intended, by the said consent and agreement of the said parties, for the dividing and making a partition or separation of the said easterly part, share and portion, from the westerly part, share and portion of the said tract of land and premises, so conveyed by his said Royal Highness aforesaid, in and by these presents intended to be bargain'd, sold and convey'd by the said Sir George Carteret unto the said William Penn, Gawn Lawry and Nicholas Lucas, and all and every the isles, islands, rivers, mines, minerals, woods, fishing, hawkings, huntings, and fowlings; and all other royalties, governments, powers, forts, franchises, harbours, profits, commodities and hereditaments whatsoever, unto the said easterly part, share and portion of the said tract of land and premises belonging, or in any wise appertaining, with their and every of their appurtenances, and all the estate, right, title, interest, benefit, advantage, claim and demand whatsoever, as well in law as in equity, of them the said Edward Billinge, William Penn, Gawn Lawry, Nicholas Lucas, and each and every of them, of, in, unto, and out of the said easterly part, share and portion, easterly parts, shares and portions of the said tract of land and premises, and of, in, unto and out of every part and

parcel of the same, and the reversion and reversions, remainder and remainders of the same, and of every part and parcel of the same, and all rents, duties and services reserv'd upon any estates or grants heretofore made or granted by the said Lord Berkeley and Sir George Carteret, or by any persons claiming any estate, interest or authority from, by or under either of them, of any part of the premises hereby convey'd to the said Sir George Carteret; which said rents, duties and services reserved upon, which said estates and grants made of any part of the premisses hereby conveyed to the said Sir George Carteret, shall be from henceforth due and payable unto the said Sir George Carteret and his heirs, of whom all such estates so made and granted as aforesaid, are to be from henceforth holden according to the true intent of these presents; which said easterly part, share and portion, parts, shares and portions of the said tract of land and premises is now by the consent and agreement of the said parties to these presents, called and agreed from henceforth to be called, by the name of East New Jersey; and is all that, and only all that part, share and portion of the said tract of land and premises so convey'd by his said royal highness as aforesaid; as lyeth extended from the east side of the said line of partition before mentioned, to have and to hold unto the said Sir George Carteret his heirs and assigns in severalty, to the sole and only use of the said Sir George Carteret, and of his heirs and assigns forever. And each of them the said William Penn, Gawn Lawry, Nicholas Lucas, and Edward Billinge for himself, severally and respectively, and for his several respective heirs, executors and administrators, and for his several and respective own acts only, and not jointly, nor the one for the other, or for the heirs, executors, administrators, or acts of the other, doth covenant, grant and agree to and with the said Sir George Carteret, his heirs and assigns, by these presents, that he hath not at any time heretofore done, or suffered any act, matter or thing whatsoever, whereby, or by reason whereof, the said premises hereby bargained, sold, released, confirmed or conveyed by the said Edward Billinge, William Penn, Gawn Lawry, and Nicholas Lucas, unto the said Sir George Carteret, or herein or hereby meant, mentioned or intended so to be or any part or parcel of the same, is, are, shall or may be any ways charged, burthened or incumbered in title, charge, estate or otherwise howsoever, other than such arrears (if any be) which now at the day of the date of these presents are due and unpaid, upon any the restrictions, contained in the said herein before recited Letters Patents, herein before recited conveyances, herein before recited to have been made by his said royal highness James Duke of York, or either or any of them. And these presents further witness that in further pursuance and performance of the said herein before recited agreement, and for the further perfecting the said partition so agreed to be aforesaid, and in consideration of five shillings to him the said Sir George Carteret in hand paid, by the said William Penn, Gawn Lawry and Nicholas Lucas, the receipt whereof he doth hereby acknowledge, the said Sir George Carteret hath bargained, sold, released, confirm'd and conveyed, and doth by these presents, bargain, sell, release, confirm and convey unto the said William Penn, Gawn Lawry, and Nicholas Lucas, and to their heirs and assigns forever, all that westerly part, share and portion, and all that and those other part

and parts, share and shares, portion and portions, of the said tract of land and premises so granted by his said Royal Highness, the said James Duke of York, unto the said John Lord Berkley and Sir George Carteret, as aforesaid; and which said westerly part, share and portion, and which said other parts, shares and portions, is and are extending southward and westward, and northward along the sea coast, and the before mentioned bay and river commonly called and known by the name or names of Delaware bay and Delaware river, from the said south partition point before mentioned, to be on the east side of Little Egg Harbour, unto the said north partition point herein before mentioned, to be on the before mentioned northermost branch or part of Delaware river aforesaid; and from thence, that is to say, from the said north partition point, extending southward unto the said south partition point before mentioned, by the said before mentioned strait and direct line called the line of partition, drawn thro' the said tract of land from the said north partition point unto the said south partition, by the consent and agreement before mentioned, intended for the dividing and making a partition or separation of the said westerly part, share and portion from the before mentioned easterly part, share and portion of the said tract of land and premises so conveyed by his said Royal Highness as aforesaid, and herein before bargain'd, sold and conveyed by the said William Penn, Gawn Lawry, Nicholas Lucas, and Edward Billinge, unto the said Sir George Carteret as aforesaid, and all and every the isles, islands, rivers, mines, minerals, woods, fishings, hawkings, huntings, and fowlings, and all other royalties, governments, powers, forts, franchises, harbours, profits, commodities and hereditaments whatsoever, unto the said westernly part, share and portion of the said tract of land and premises, hereby bargained by the said Sir George Carteret, belonging or in any ways appertaining, with their and every of their appurtenances, and all the estate, right, title, interest, benefit, advantage, claim and demand, whatsoever, as well in law as in equity of him the said Sir George Carteret, of, in, unto and out of the same, and of, in, unto and out of every part and parcel of the same, together with the reversion and reversions, remainder and remainders of the same, and of every part and parcel of the same, and all rents, duties and services upon any estates or grants heretofore made or granted by the said Lord Berkeley and Sir George Carteret, or either of them, of any part or parts of the said premises hereby convey'd to the said William Penn, Gawn Lawry, and Nicholas Lucas, or herein or hereby mentioned, or intended so to be; all which said westerly part, share and portion, parts, shares and portions of the said tract of land and premises are now by the consent and agreement of the parties to these presents, called and agreed from henceforth to be called by the name of West Jersey, and is all that and only all that part, share and portion, and all those parts, shares and portions, of the said tract of land and premises so conveyed by his said Royal Highness as aforesaid, as lyeth extended westward, or southward from the west side of the said line of partition, before mentioned, to have and to hold unto the said William Penn, Gawn Lawry, and Nicholas Lucas, their heirs and assigns in severalty, to the only use of the said William Penn, Gawn Lawry and Nicholas Lucas, and of their heirs and assigns forever. And the said Sir

George Carteret for him, his heirs, executors, and administrators, doth by these presents covenant, grant and agree to, and with the said William Penn, his heirs and assigns, and also to and with the said Gawn Lawry his heirs and assigns, and likewise to and with the said Nicholas Lucas, his heirs and assigns, and also to and with the said Edward Billinge, his heirs and assigns, that he the said Sir George Carteret hath not at any time heretofore done or suffer'd any act, matter or thing whatsoever, whereby or by reason whereof the said premises hereby bargain'd, sold, released and confirm'd or convey'd by him the said Sir George Carteret unto the said William Penn, Gawn Lawry and Nicholas Lucas, or herein or hereby meant, mention'd or intended so to be, or any part or parcel of the same, is, are, shall or may be any ways charged, burthened or incumbered in title, charge or estate, or otherwise howsoever, other than such arrears (if any be) which now at the day of the date of these presents are due and unpaid, upon any the reservations contain'd in the said herein before recited Letters Patent, and herein before recited conveyances, herein before recited to have been made by his said Royal Highness the said Duke of York, or either or any of them, and other than such lawful estates and grants of land and plantations, part of the said premises, as have been at any time heretofore by him the said Sir George Carteret, either within themselves, together with the said Lord Berkeley, or by authority lawfully derived from him, or from him and the said Lord Berkeley, made and granted to any planter or planters now in actual possession of the same lands and plantations, and which have been made and granted according to the rules and laws of plantations now in force in the said country, under the usual and accustom'd rents, duties and services by the said rules and laws appointed and directed to be observed upon grants of themselves there: All and singular which said rents, duties and services reserved upon which said estates and grants, shall be from hence forth due and payable unto the said William Penn, Gawn Lawry and Nicholas Lucas, their heirs and assigns; of whom all such estates so made and granted as aforesaid, are to be from henceforth holden according to the true intent of these presents, and of all the respective parties hereunto: And it is hereby declared and agreed, by all the respective parties to these presents, to be the true intent and meaning of these presents, and of all the respective parties hereunto, that the aforesaid rent of twenty nobles herein before mentioned, to be reserved due and payable unto his said Royal Highness the said James Duke of York, and his heirs, shall from henceforth be equally paid and borne in manner following, that is to say one equal moiety or half part thereof by the said Sir George Carteret, his heirs and assigns, and to be issuing out of, and charged and chargeable upon that part and share of the said premises which is hereby conveyed unto the said Sir George Carteret, his heirs and assigns; and the other equal moiety or half part thereof by the said William Penn, Gawn Lawry and Nicholas Lucas, their Heirs and assigns, and to be issuing out of, and charged and chargeable upon that part and share of the said premises which is hereby conveyed unto the said William Penn, Gawn Lawry and Nicholas Lucas, their heirs and assigns. *In witness* whereof all the said respective parties to these presents, have to each part of these presents

set their respective hands and seals, the day and year first above written.

G. Carteret.
W. Penn.
Gawn Lawry.
Nicholas Lucas.
Edward Billinge.

Sealed and delivered in the presence of
Henry West.
James Bowers.
Thomas Langhorn.
Richard Langharn.
John Richardson.

DUKE OF YORK'S SECOND GRANT TO WILLIAM PENN, GAWN LAWRY, NICHOLAS LUCAS, JOHN ELDRIDGE, EDMUND WARNER, AND EDWARD BYLLYNGE, FOR THE SOIL AND GOVERNMENT OF WEST NEW JERSEY—AUGUST 6, 1680 [a]

This indenture made the sixth day of August, Anno Domini, 1680, and in the two and thirtieth year of the reign of King Charles the Second, over England, &c. between his Royal Highness, James Duke of York, and Albany, Earl of Ulster, &c. and brother to our Sovereign Lord the King, of the one part; Edward Byllynge of Westminster, in the county of Middlesex, gentleman; William Penn, late of Rickmansworth, in the county of Hertford, and now of Warminghurst, in the county Sussex, Esq; Gawen Lawry, of London, merchant; Nicholas Lucas, of Hertford, in the said county of Hertford, maulster, John Eldridge, of St. Pauls Shadwell, in the County of Middlesex, tanner, and Edmond Warner, citizen of London, of the other part. Whereas our Sovereign Lord the King's Majesty in and by his Letters Patent, under the great seal of England, bearing date the twelfth day of March in the sixteenth year of his said Majesty's reign, did (amongst several other things therein mentioned) give and grant unto his said Royal Highness, the said James Duke of York, his heirs and assigns, all that tract of land adjacent to New England, in the parts of America, and lying and being to the westward of Long Island, and Manhattas Island, and bounded on the east part by the main sea, and part by Hudson river, and hath upon the west Delaware bay or river, and extendeth southward, to the main ocean, as far as Cape May, at the mouth of Delaware bay, and to the northward, as far as the northermost branch of said bay or river of Delaware, which is in one and forty degrees, and forty minutes of lattitude, and crossing over thence in a straight line to Hudson's river, in one and forty degrees of lattitude. Which said tract of land, was then after to be called by the name of New Caesarea, or New Jersey, with all the lands, island, soiles, rivers, harbours, mines, minerals, quarries, woods, marshes, waters lakes,

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer. 2d Ed. pp. 412–419.

fishings, hawkings, huntings, and fowlings, and all other royalties, profits, commodities, and hereditaments, unto the said premises belonging and appertaining; with their and every of their appurtenances, and all his said Majesty's estate, right, titles, interest, benefit, advantage, claim and demand of, in and to the same premises, or any part or parcel thereof, and the reversion and reversions, remainder, and remainders, together with the yearly and other rents, revenues and profits of the same, and of every part and parcel thereof, to hold unto his said Royal Highness, the said James Duke of York, his heirs and assigns for ever, to be holden of his said Majesty, his heirs and successors, amongst other things therein granted, as of his Majesty's mannor of East Greenwich, in his Majesty's county of Kent, in free and common soccage, and not in capite, by knight service, and under the yearly rent therein mentioned. And whereas his Royal Highness the said James Duke of York, did heretofore by several good and sufficient conveyances and assurances, under his hand and seal, duly executed, and dated the three and twentieth and four and twentieth days of June, in the sixteenth year of his said Majesty's reign, for the consideration therein mentioned, grant and convey the said tract of land, and premises before mentioned, unto John Lord Berkley, Baron of Stratton, and one of his Majesty's most honourable privy Council, and Sir George Carteret of Saltrum, in the county of Devon, knight, and baronet, and one of his Majesty's most honourable privy Council, and their heirs, the said tract of land and premises before particularly mentioned, and the reversion and reversions, remainder and remainders of the same, to hold unto the said John Lord Berkley, and Sir George Carteret, their heirs and assigns forever, under the yearly rent of twenty nobles sterling, payable as the same is therein reserved to be paid. And whereas the said John Lord Berkley, did afterwards convey all his full and undivided moiety of all and singular the same premises, unto John Fenwick, Esq; his heirs and assigns for ever, in trust, and by the said John Fenwick owned to be in trust for the said Edward Byllynge, his heirs and assigns for ever. And the said John Fenwick, afterwards by the consent and direction of the said Edward Byllynge, and also the said Edward Byllynge did convey the said undivided moiety of the premises, unto the said William Penn, Gawen Lawry, and Nicholas Lucas, and their heirs, to the uses following, (that is to say) as to ten equal and undivided hundred parts thereof to the use of the said John Fenwick, and of his heirs and assigns forever; and as to the other ninety equal and undivided parts being the residue of the said undivided moiety, to the use of the said William Penn, Gawen Lawry, and Nicholas Lucas, their heirs and assigns forever, in trust for the said Edward Byllynge, his heirs and assigns forever. After which the said John Fenwick, conveyed all his said ten equal and undivided hundred parts, of the said undivided moiety, unto John Eldridge, and Edmund Warner their heirs and assigns forever. And the said John Eldridge, and Edmond Warner, did convey the same ten equal and undivided hundred parts, unto the said William Penn, Gawen Lawry, and Nicholas Lucas their heirs and assigns forever, the better to enable them the said Edward Byllynge, William Penn, Gawen Lawry, and

Nicholas Lucas, to make a partition of the said intire premisses, with the said Sir George Carteret. And whereas afterwards upon a partition made of the said whole and intire premisses, between the said Sir George Carteret, and the said William Penn, Gawen Lawry, Nicholas Lucas, Edward Byllynge, the said Sir George Carteret, did bargain, sell, release, and confirmed unto the said William Penn, Gawen Lawry, and Nicholas Lucas, their heirs and assigns forever, all that westerly part, share and portion of the said whole and intire tract of land and premisses as before mentioned, which is extending southward, and westward, and northward, along the sea coasts, and the before mentioned bay, or river, called Delaware bay and Delaware river, unto a certain point there, now called the south partition point, being the most southerly point of the east side of a certain place, or harbour, lying on the southern part of the said tract of land and premises, called or known in the map of the said premisses, by the name of Little Egg Harbour, unto a certain other point there, now called the north partition point, being the most northerly point, branch, or part of the said river, called Delaware river; and from thence, that is to say, from the said north partition point, extending southward unto the said south partition point, by a streight and direct line drawn through the said tract of land, from the said north partition point, unto the said south partition point, by the consent and agreement of the said parties, now called the line of partition, and by them intended for the dividing and making a partition of the said westerly part, share and portion, from the easterly part, share and portion, from the easterly part, share and portion, of the said tract of land and premises. And all and every the isles, islands, rivers, mines, minerals, fishings, hawkings, huntings, fowlings, and all other royalties, powers, franchises, harbours, proffits, commodities, and heriditaments, whatsoever unto the said westerly part, share and portion, belonging or appertaining. And all the estate, right, title, and interest, claim and demand whatsoever of him the said Sir George Carteret, of, in, unto and out of the same, and the reversion and reversions, remainder and remainders of the same, and of every part and parcel: All which said westerly part, share and portion, was then and now is by the consent and agreement of the said parties, the said Sir George Carteret, William Penn, Gawen Lawry, Nicholas Lucas, and Edward Byllynge, called and agreed from thenceforth to be called by the name of West New Jersey, and all that and only all that part, share and portion, and all those parts, shares and portions of the said tract of land and premises, so conveyed by the said James Duke of York, unto the said John Lord Berkley, and Sir George Carteret as aforesaid, as lyeth, and lye extended westward and southword, from the west side of the said line of partition before mentioned, To hold unto the said William Penn, Gawen Lawry, and Nicholas Lucas, their heirs and assigns, in severalty to the use of them, their heirs and assigns forever. Upon which partition so made, they the said William Penn, Gawen Lawry, and Nicholas Lucas, became seized of all that westerly part of the said premises as now called West New Jersey, with the appurtenances in severalty. And being so seized pursuant to a trust for that purpose reposed in them, they conveyed ten full equal undivided hundred parts of the said westerly

part of the said premises, called West New Jersey, unto the said John Eldridge, and Edmund Warner, and their heirs, to hold unto them and their heirs, to the use of them and their heirs forever. And the said William Penn, Gawn Lawry, and Nicholas Lucas, remaining still seized of the other ninety equal and undivided hundred parts of the said westernly part of the said premises called West New Jersey, to them and to their heirs forever, but always in trust for the said Edward Byllynge, his heirs and assigns forever. And whereas since the making and executing of the said conveyance so made by his Royal Highness unto the said John Lord Berkley, and Sir George Carteret, as aforesaid, and in the times of the late war, between his said Majesty and the States of the United Provinces of the Netherlands, the armies and subjects of the said States General gained the possession not only of the said premises, so by his said Royal Highness, conveyed unto the said John Lord Berkley, and Sir George Carteret, as aforesaid, but also of other the lands and hereditaments, which were originally granted unto his said Royal Highness, by his said Majesty's said Letters Patents hereinbefore recited. All which were afterwards regained from the said States, or by them delivered up unto his said Majesty. And whereas his said Majesty did by other his Letters Patents, dated the twenty-ninth day of June, in the six and twentieth of his Majesty's reign, grant and convey unto his said Royal Highness and his heirs forever, as well the said tract of land and premises herein before recited to have been granted and conveyed by his said Royal Highness, unto the said John Lord Berkley, and Sir George Carteret, as aforesaid, as all other the lands and hereditaments in and by the said herein first before recited Letters Patents granted or mentioned to be granted. And whereas by the said several grants so made by his said Majesty unto his said Royal Highness as aforesaid, several powers and authority are and were given and granted unto his said Royal Highness, his heirs and assigns to be executed by his said Royal Highness, his heirs and assigns, or by the deputies, agents or commissioners of his said Royal Highness, his heirs or assigns, which, are necessary as well for the planting, peopling and improving of all and every the respective lands, places and territories thereby granted, and for the transporting thither from time to time, such of his Majesty's subjects as should be willing to go or be transported into those parts, or any of them; as for the defending, guarding and keeping of the same; as also for the well governing of the same, and of all such as are or shall be inhabitting in the same, and for the making, ordaining, and executing of necessary and convenient laws and constitutions, in order to such government, and the punishing and pardoning offences, and offenders, as occasion shall require; and to nominate, make, ordain, constitute and confirm, and also to revoke, discharge, change and alter all and singular governors, officers, and ministers, which by his said Royal Highness, his heirs or assigns, shall be from time to time, thought fit or needful to be made, ordained, appointed or used in the said parts or places, or any of them. And to do all other things needful, and useful, and necessary for the well governing, keeping, defending and preserving the said respective places and territories and of every of them and all such as are and shall be inhabitants thereof. Now these presents witness, that for

and in consideration of a competent sum of lawful English money, unto his said Royal Highness in hand paid, and for the better extinguishing all such claims, and demands, as his said Royal Highness may any ways have of or in the premises aforesaid, now called West New Jersey, or any part of them; and for the further and better settling, conveying, assuring, and confirming of the same and of every part thereof, according to the purport and true meaning of these presents, his said Royal Highness, the said James Duke of York, hath granted, bargained, sold, and confirmed, and by these presents, doth grant, bargain, sell, and confirm unto the said William Penn, Gawen Lawry, Nicholas Lucas, John Eldridge, and Edmund Warner, all that part, share and portion, and all those parts, shares and portions of all that entire tract of land, and all those entire premises so granted by his said Royal Highness unto the said John Lord Berkley, and Sir George Carteret, and their heirs as aforesaid, as in, by, and upon the said partition aforesaid, was and were vested in the said William Penn, Gawen Lawry, and Nicholas Lucas, and their heirs, and then agreed to be called by the name of West New Jersey, together with all islands, bays, rivers, waters, forts, mines, quarries, royalties, franchises, and appurtenances whatsoever, to the same belonging, or in any wise appertaining. And all the estate, right, title, interest, reversion, remainder, claim and demand whatsoever, as well in law as in equity, of him the said James Duke of York, of, into, and out of the same, or any part or parcel of the same; as also the free use of all bays, rivers and waters, leading unto or lying between the said premises, or any of them in the said parts of America, for navigation, free trade, fishing or otherwise, to have and to hold, unto the said William Penn, Gawen Lawry, Nicholas Lucas, John Eldridge, and Edmond Warner, their heirs and assigns forever, to the uses following, (that is to say) as to ten equal and undivided hundred parts thereof, to the use of the said John Eldridge and Edmund Warner, and of their heirs, and assigns forever. And as to the other ninety equal and undivided hundred parts thereof, to the use of the said William Penn, Gawen Lawry, and Nicholas Lucas, and of their heirs and assigns forever; in trust nevertheless for the said Edward Byllynge, his heirs and assigns forever. Yielding and paying therefore yearly for the said whole entire premises, unto his Royal Highness, his heirs and assigns, the yearly rent of ten nobles of lawful English money, at or in the Middle Temple Hall London, at or upon the feast day of St. Michael the Arch Angel. And these further witness, that for the better enabling the said Edward Byllynge, his heirs and assigns, to improve and plant the said premises with people, and to exercise all necessary government there, whereby the said premises may be the better improved and made more useful to him, his heirs and assigns, and to the King's Majesty, his said Royal Highness hath likewise given, granted, assigned and transferred, and doth by these presents give, grant, assign, and transfer unto the said Edward Byllynge, all and every such the same powers, authorities, jurisdictions, governments, and other matters and things whatsoever, which by the said respective Letters Patents, or either of them, are and were granted, or intended to be granted, to be exercised by his said Royal Highness, his heirs, assigns, deputies, officers, or agents, in, upon, or in relation unto the said premises

hereby confirmed, or intended to be confirmed, and every of them, in case the same were now in the actual seizen of his said Royal Highness, to be held, enjoyed, exercised and executed by him the said Edward Byllynge, his heirs and assigns, and by his deputies, officers, agents and commissioners, as fully and amply to all intents, constructions and purposes as his said Royal Highness, or his heirs, might, could or ought to hold, enjoy, use, exercise or execute the same, by force and virtue of the said several and respective and before recited Letters Patents, or either of them, or of any thing in them, or either or any of them conteyned or otherways however. In witness whereof the parties to these presents have hereunto interchangeably set their hands and seal, the day and year first above written,

JAMES.

Signed, sealed and delivered by his Royal Highness James Duke of York, within named, in the presence of
John Worden,
Thomas Heywood.

Thomas Heywood maketh oath, that the day and year within written, saw his Highness the Duke of York, sign, seal, and as his act, and deed, deliver this indenture to the use within mentioned, and afterwards subscribed his name as a witness, Thomas Heywood.
Jur. 3d. die. September 1680.
Cor. me Magis. Chane.

J. CLERKE.

The foregoing is a true copy taken from and compared with the record in the Secretary's office at Burlington, in Lib. M. of deeds, folio, 318. &c.
Examined per.

SAMUEL PEART, *Dep. Secretary*

PROVINCE OF WEST NEW-JERSEY, IN AMERICA, THE 25TH OF THE NINTH MONTH CALLED NOVEMBER, 1681 [a]

Forasmuch as it hath pleased God, to bring us into this Province of West New Jersey, and settle us here in safety, that we may be a people to the praise and honour of his name, who hath so dealt with us, and for the good and welfare of our posterity to come, we the Governor and Proprietors, freeholders and inhabitants of West New Jersey, by mutual consent and agreement, for the prevention of innovasion and oppression, either upon us or our posterity, and for the preservation of the peace and tranquility of the same; and that all may be encouraged to go on chearfully in their several places: We do make and constitute these our agreements to be as fundamentals to us and our posterity, to be held inviolable, and that no person or persons whatsoever, shall or may make void or disanul the same upon any pretence whatsoever.

I. That there shall be a General Free Assembly for the Province aforesaid, yearly and every year, at a day certain, chosen by the free

[a] Verified by "Grants and Concessions of New Jersey." Learning & Spicer. 2d Ed. pp. 423–425.

people of the said Province, whereon all the representatives for the said Province, shall be summoned to appear, to consider of the affairs of the said Province, and to make and ordain such acts, and laws, as shall be requisite and necessary for the good government and prosperity of the free people of the said Province; and (if necessity shall require) the Governor for the time being, with the consent of his Council, may and shall issue out writts to convene the Assembly sooner, to consider and answer the necessities of the people of the said Province.

II. That the Governor of the Province aforesaid, his heirs or successors for the time being, shall not suspend or defer the signing, sealing and confirming of such acts and laws as the General Assembly (from time to time to be elected by the free people of the Province aforesaid) shall make or act for the securing of the liberties and properties of the said free people of the Province aforesaid.

III. That it shall not be lawful for the Governor of the said Province, his heirs or successors for the time being, and Council, or any of them, at any time or times hereafter, to make or raise war upon any accounts or pretence whatsoever, or to raise any military forces within the Province aforesaid, without the consent of the General Free Assembly for the time being.

IV. That it shall not be lawful for the Governor of the said Province, his heirs or successors for the time being, and Council, or any of them, at any time or times hereafter, to make or enact any law or laws for the said Province, without the consent, act and concurrence of the General Assembly; and if the Governor for the time being, his heirs or successors and Council, or any of them, shall attempt to make or enact any such law or laws of him or themselves without the consent, act and concurrence of the General Assembly; that from thenceforth, he, they, or so many of them as shall be guilty thereof, shall, upon legal conviction, be deemed and taken for enemies to the free people of the said Province; and such act so attempted to be made, to be of no force.

V. That the General Free Assembly from time to time to be chosen as aforesaid, as the representatives of the people, shall not be prorogued or dissolved (before the expirance of one whole year, to commence from the day of their election) without their own free consent.

VI. That it shall not be lawful for the Governor of the said Province, his heirs or successors for the time being, and Council, or any of them, to levy or raise any sum or sums of money, or any other tax whatsoever, without the act, consent and concurrence of the General Assembly.

VII. That all officers of State, or trust, relating to the said Province, shall be nominated and elected by the General Free Assembly for the time being, or by their appointment; which officer and officers shall be accountable to the General Free Assembly, or to such as the said Assembly shall appoint.

VIII. That the Governor or the Province aforesaid, his heirs or successor for the time being, or any of them, shall not send ambassadors, or make treaties, or enter into an alliance upon the publick account of the said Province, without the consent of the said General Free Assembly.

IX. That no General Free Assembly hereafter to be chosen by the free people of the Province aforesaid, shall give to the Governor of

the said Province for the time being, his heirs or successors, any tax, or custom for a longer time than for one whole year.

X. That liberty of conscience in matters of faith and worship towards God, shall be granted to all people within the Province aforesaid; who shall live peaceably and quietly therein; and that none of the free people of the said Province, shall be rendered uncapable of office in respect of their faith and worship.

Upon the Governors acceptance and performance of the proposals herein before expressed, we the General Free Assembly Proprietors and freeholders of the Province of West New Jersey aforesaid, do accept and receive Samuel Jenings as Deputy Governor.

In testimony whereof I have hereunto put my hand and seal, the day and year above written.

SAMUEL JENNINGS,
Deputy Governor.

Thomas Ollive, Speaker, to the General Free Assembly per order and in the name of the whole Assembly.

The fundamentals aforesaid being signed and sealed by the Deputy Governor, were ordered and appointed by the said Deputy Governor, and General Free Assembly, to be recorded the day and year first aforesaid, by me Thomas Revell, clerk to the General Assembly.

DUKE OF YORK'S CONFIRMATION TO THE 24 PROPRIETORS: 14TH OF MARCH, 1682 [a]

THIS INDENTURE made the fourteenth day of March, in the five and thirtieth year of the reign of our Sovereign Lord Charles the Second, by the Grace of God of England, France and Ireland, King, Defender of the Faith, &c. Anno Domini 1682. Between his Royal Highness the most illustrious Prince James, Duke of York and Albany Earl of Ulster, &c. only brother to our Sovereign Lord the King, of the one part, and the Right Honourable James Earl of Perth, of the kingdom of Scotland; the Honourable John Drummond, of Lundy, in the said kingdom of Scotland, Esq.; Robert Barckly, of Eury, in the said kingdom of Scotland, Esq.; David Barckly, jun. of Eury, aforesaid, Esq.; Robert Gordon, of Cluny, in the kingdom of Scotland, Esq.; Arent Sonmans, of Wallingford, in the kingdom of Scotland, Esq; William Penn, of Worminghurst, in the County of Sussex, Esq; Robert West, of the Middle Temple, London, Esq; Thomas Rudyard, of London, gentleman; Samuel Groome, of the parish of Stepney, in the county of Middlesex, marriner; Thomas Hart, of Enfield, in the said county of Middlesex, merchant; Richard Mew, of Stepney, aforesaid, merchant; Ambrose Rigg of Catton Place, in the county of Surry, gentleman; Thomas Cooper, citizen and merchant taylor, of London; Gawn Lawry, of London, merchant; Edward Billinge, of the city of Westminster, in the county of Middlesex, gentleman; James Braine, of London, merchant; William Gibson, citizen and haberdasher, of London; John Haywood, citizen and skinner, of London; Hugh Hartshorn, citizen

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer. 2d Ed. pp. 141–152.

and skinner, of London; Clement Plumstead, citizen and draper, of London; Thomas Barker, of London, merchant; Robert Turner, of the city of Dublin, in the kingdom of Ireland, merchant; and Thomas Warne, of Dublin, aforesaid, in the said kingdom of Ireland, merchant, of the other part. WHEREAS our said Sovereign Lord the King's Majesty, in and by his Letters Patent, under the great seal of England, bearing date the twelfth day of March, in the sixteenth year of his said Majesty's reign, did amongst other things therein mentioned, give and grant unto his Royal Highness James Duke of York, his heirs and assigns, all that tract of land adjacent to New England, in the parts of America, and lying and being to the westward of Long Island and Manhattas Island, and bounded on the east part by the main sea; and east by Hudson's river; and extendeth southward to the main ocean as far as Cape May, at the mouth of the Delaware bay; and to the northward as far as the nothermost branch of the said bay or river of Delaware, which is in one and forty degrees and forty minutes of lattitude, and crossing over thence in a straight line to Hudson's river, in one and forty degrees of lattitude; which said tract of land was then after to be called by the name of New Caesarea or New Jersey, with all the lands, islands, soils, rivers, mines, minerals, quarries, woods, marshes, waters, lakes, fishings, hawkings, huntings, and fowlings, and all other royalties, profits, commodities and hereditaments, unto the said premises belonging and appertaining, with their and every of their appurtenances: and all his said Majesty's estate, right, title, interest, benefit, advantage, claim and demand of, in and to the same premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders, together with the yearly and other rents, revenues and profits of the same, and of every part and parcel thereof, to hold unto his said Royal Highness the said James, Duke of York, his heirs and assigns forever; to be holden of his said Majesty, his heirs and successors, amongst other the things therein granted, as of his Majesty's mannor of East Greenwich, in his Majesty's county of Kent, in free and common soccage, and not in capite or knight service, under the yearly rent therein mentioned. AND WHEREAS his said Royal Highness James, Duke of York, did heretofore by several good and sufficient conveyances and assurances under his hand and seal duly executed, the twenty-third and twenty-fourth days of June, in the sixteenth year of his said Majesty's reign, for the consideration therein mentioned, grant and convey the said tract of land and premises before mentioned, to John Lord Berlkley, baron of Stratton, and one of his Majesty's most honourable Privy Council, and Sir George Carteret, of Salterem, in the county of Devon, knight and baronet, and one other of his Majesty's most honourable Privil Council, and their heirs, the said tract and premises before particularly mentioned, and the reversion and reversions, remainder and remainders of the same, to hold unto the said John Lord Berkeley and Sir Georgé Carteret, their heirs and assigns for ever, under the yearly rent of twenty nobles sterling, payable as the same is therein reserved to be paid. AND WHEREAS his said Majesty did by other his Letters Patents, dated the twenty-ninth day of June in the six and twentieth year of his said Majesty's reign, grant and convey unto his said Royal Highness, and his heirs forever, as well the said tract of land and

premises hereinbefore recited to have been granted and conveyed by his said Royal Highness, unto the said John Lord Berkeley and Sir George Carteret as aforesaid, as all other the lands and hereditaments in and by the said herein first before recited Letters Patents granted, or mentioned to be granted. And whereas his said Royal Highness by his indenture of lease and release, bearing date the of July, in the six and twentieth year of his Majesty's reign, did grant and convey the said tract of land and premises, to the said Sir George Carteret, his heirs and assigns, as by the said indenture, relation being thereunto had, may appear. And whereas upon a partition made of the whole and entire premises, between the said Sir George Carteret and William Penn, of Worminghurst, in the county of Sussex, Esq; Gawn Lawry, of London, merchant; Nicholas Lucas, of Hertford, in the county of Hertford, malster; and Edward Bullynge, of Westminster, in the county of Middlesex, gentleman; in whom the fee simple of the said Lord Berkeley's, undivided moyety, of all and singular the premises, by good and sufficient conveyances, was then vested the said William Penn, Gawen Lawry, Nicholas Lucas, and Edward Byllnge, did bargain, sell, release and confirm unto the said Sir George Carteret, his heirs and assigns, all that easterly part, share and portion, and all those easterly parts, shares and portions of the said whole and entire tract of land and premises before mentioned, extending eastward and northward along the sea coasts, and the said river called Hudson's river, from the east side of a certain place or harbour, lying on the southerly part of the same tract of land, and commonly called or known in a map of the said tract of land, by the name of Little Egg Harbour, to that part of the said river called Hudson's river, which is in forty-one degrees of lattitude, being the northermost part of the said tract of land and premises, which is bounded by the said river; and crossing over from thence in a straight line, extending from that part of Hudson's river aforesaid, to the nothermost branch of the aforementioned river called Delaware river, and to the most northerly point or boundary of the said entire tract of land and premises, now called the north partition point; and from thence, that is to say, from the north partition point, extending southward, unto the more southerly point, by a straight and direct line drawn through the said tract of land, from the said north partition point unto the said south partition point, by the consent and agreement of the said parties, now called the line of partition, and by them intended for the dividing and making a partition of the easterly part, share and portion, from the westerly part, share and portion of the said tract of land and premises; and all and every the isles, islands, rivers, mines, minerals, woods, fishings, hawkings, huntings and fowlings, and all other royalties, governments, powers, forts, franchises, harbours, profits, commodities and hereditaments whatsoever, unto the said easterly part, share and portion, of the said tract of land and premises, belonging or in any wise appertaining, with their and every of their appurtenances; and all the estate, right, title, interest, claim and demand whatsoever of them the said William Penn, Gawn Lawry, Nicholas Lucas and Edward Byllynge, and of each and every of them, of, into and out of the said easterly part, share and portion of the said tract of land and premises, and every part and parcel

thereof, and the reversion and reversions, remainder and remainders of the same, and every part and parcel of the same; All which said easterly part, share and portion, parts, shares and portions, was and were then, and now is, and are by the consent and agreement of the said parties to the said partition, called and agreed from thenceforth to be called by the name of East New Jersey; and is all that, and only all that part, share and portion, and all those parts, shares and portions of the said tract of land and premises, so conveyed by his said Royal Highness as aforesaid, as lyeth extended eastward from the east side of the said line of partition before mentioned, to hold to the said Sir George Carteret, his heirs and assigns, in severalty, to the use of him the said Sir George Carteret, his heirs and assigns forever; upon which partition so made, and such conveyance so executed as aforesaid, he the said Sir George Carteret became seized of all that easterly part of the premises, now called East New Jersey, with the appurtenances in severalty. And whereas the said Sir George Carteret being by virtue of the said assurances and partition aforesaid, become sole seized to him and his heirs, of the said premises called East New Jersey, by his last will and testament in writing, bearing date on or about the fifth day of December, in the year of our Lord one thousand six hundred seventy and eight, did devise the same, and all his estate therein, amongst other things, to the right honourable Edward, Earl of Sandwich, the right honourable John Earl of Bath; the right honourable Thomas, Lord Crew, Baron Crew, of Steane the honourable Bernard Greenville, Esq; brother of the said Earl of Bath; the honourable Sir Robert Atkins, knight of the Bath; the honourable Sir Edward Atkins, knight, one of the barons of his Majesty's Court of Exchequer, and their heirs in trust, to sell the same for the payment of his debts and legacies, as in and by the said will, relation being thereunto had, may appear, and shortly after dyed. And whereas the said John, Earl of Bath; Thomas, Lord Crew; Bernard Greenville; Sir Robert Atkins; and Sir Edward Atkins, by indentures of lease and release, bearing date the fifth and sixth days of March, in the two and thirtieth year of his Majesty's reign conveyed the said premises, amongst other things, to Thomas Cremer, of the Parish of St. Andrews, Holbourne, in the county of Middlesex, gentleman, and Thomas Pocock of the same, gentleman, as by the said indentures, relation being thereunto had, it may appear. And whereas the said Earl of Sandwich, by his indenture bearing date the twentieth day of February last past, hath released all his estate, interest and trust in the said premises, to the said Earl of Bath, Lord Crew, Bernard Greenville, Sir Robert Atkins, and Sir Edward Atkins, and their heirs, as by the said indenture, relation being thereunto had, may appear. And whereas the said Earl of Bath, Lord Crew, Bernard Greenville, Sir Robert Atkins, and Sir Edward Atkins, by the consent and direction of dame Elizabeth Carteret, relick and executrix of the said Sir George Carteret; and the said Thomas Cremer and Thomas Pocock, by the consent and direction of the said dame Elizabeth Carteret, Earl of Bath, Lord Crew, Bernard Greenville, Sir Robert Atkins and Sir Edward Atkins, have by indentures of lease and release, bearing date the first and second days of February last past, granted and conveyed to the said William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew,

Thomas Wilcox, of London goldsmith, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, and Thomas Cooper, their heirs and assigns, all the said premises called East New Jersey, together with all isles, islands, rivers, mines, minerals, woods, fishings, hawkings, huntings, fowlings, and all other royalties, privileges, franchises, forts, harbours, profits, commodities, and hereditaments whatsoever, thereunto belonging, as in and by the said indentures, relation being thereunto had, may more at large appear. And whereas the said William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Thomas Wilcox, Ambrose Rigg, John Haywood, Hugh Hartshorne, Clement Plumstead, and Thomas Cooper, have since conveyed one moyety of the said tract of land called East New Jersey, and of all other the premises to the said James, Earl of Perth, John Drummond, Robert Barckly, Robert Gordon, Arent Sonmans, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner and Thomas Warne, who are thereby become tenants in common of the said premises called East New Jersey, which with the said William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Thomas Willcox, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, and Thomas Cooper. And whereas the said Thomas Wilcox hath conveyed all his share, estate, and interest in the said premises, to the said David Barckly and his heirs: And whereas by the said several recited Letters Patents, made by his said Majesty unto his said Royal Highness as aforesaid, several powers and authorities are and were given and granted unto his said Royal Highness, his heirs or assigns, or by the deputies, agents or commissioners of his said Royal Highness, his heirs or assigns, which are necessary as well for the planting, peopleing and improving of all and every the respective lands, places and territories thereof granted; and for the transporting thither from time to time such of his Majesty's subjects as should be willing to go or be transported into those parts, or any of them, as for the defending, guarding and keeping of the same; as also for the well governing of the same, and of all such as shall be inhabiting the same, and for the making, ordaining and executing of necessary and convenient laws and constitutions, in order to such government; and the punishing and pardoning offences and offenders, as occasion shall require; and to make, ordain, constitute, and confirm, and also to revoke, discharge and alter all and singular Governors, officers and magistrates, which by his said Royal Highness, his heirs and assigns, shall be from time to time thought fit and needful to be made, ordained, appointed or used in the said parts or places, or any of them; and to do all other things needful, useful and necessary, for the well governing, keeping, defending and preserving the said respective places and territories, and of every of them and all such as are and shall be inhabiting there. Now these presents witness, that for and in consideration of a competent sum of lawful English money, unto his said Royal Highness in hand paid, and for the better extinguishing all such claims and demands as his said Royal Highness, or his heirs, may any wise have of or in the premises aforesaid, now called East New Jersey, or any part of them, and for the further and better settling and conveying, assuring and confirming of the same, and of every part thereof, according to the purport and true meaning of

these presents, his said Royal Highness the said James Duke of York, hath granted, bargained, sold, released and confirmed, and by these presents, as far as in him lyeth, doth grant, bargain, sell, release and confirm unto the said James, Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner and Thomas Warne, their heirs and assigns, all that part, share and portion, and all those parts, shares and portions, of all that entire tract of land, and all those entire premises so granted by his said Royal Highness, unto the said John Lord Berkely and Sir George Carteret, and their heirs, as in and by and upon the said partition was and were vested in the said George Carteret and his heirs, and there agreed to be called by the name of East New Jersey, together with all islands, bays, rivers, waters, forts, mines, minerals, quarries, royalties, franchises, and appurtenances whatsoever to the same belonging, or in any wise appertaining; and all the estate, right, title, interest, reversion, remainder, claim and demand whatsoever, as well in law as in equity, of his said Royal Highness James, Duke of York, of, in, unto or out of the same, or any part or parcel of the same: as also the free use of all bays, rivers, and waters, leading unto or lying between the said premises, or any of them, in the said parts of East New Jersey, for navigation, free trade, fishing or otherwise, to have and to hold unto the said Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, their heirs and assigns forever, to the only use and behoof of them the said Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner and Thomas Warne, their heirs and assigns forever, yielding and paying therefor yearly for the said whole entire premises, unto his Royal Highness, his heirs and assigns, the yearly rent of ten nobles of lawful English money, at or in the middle Temple Hall, London, at or upon the feast day of St. Michael the Archangel, yearly. And the said James, Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorne, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner and Thomas Warne, do for themselves severally, and for their several and respective heirs, executors, administrators and assigns, covenant, promise and agree to and with his said Royal Highness, his heirs and assigns, to pay, or cause to be paid, the said annual rent of ten nobles, on the days and times herein before limited for payment thereof. And these presents further witness, that for

the better enabling the said Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner and Thomas Warne, their heirs and assigns, to improve and plant the said premises with people, and to exercise all necessary government there, whereby the said premises may be the better improved, and made more useful to them, their heirs and assigns, and to the King's Majesty, his said Royal Highness hath likewise given and granted, assigned and transferred, and doth by these presents give, grant, assign and transfer unto the said Earl of Perth, John Drummond, Robert Barclay, David Barclay, Robert Gorden, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorne, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Billinge, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, their heirs and assigns, proprietors of the said Province of East New Jersey aforesaid, for the time being, all and every such and the same powers, authorities, jurisdictions, governments, and other matters and things whatsoever, which by the said respective recited Letters Patents, or either of them, are or were granted, or intended to be granted, to be exercised by his said Royal Highness, his heirs, assigns, deputies, officers, or agents, in or upon, or in relation unto the said premises, hereby confirmed, or intended to be hereby confirmed, and every of them, in case the same were now in the actual seisen of his Royal Highness, to be held, enjoyed, exercised and executed by them the said Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner and Thomas Warne, their heirs and assigns, Proprietors of the said Province of East New Jersey, for the time being, as fully and amply to all intents, constructions and purposes, as his said Royal Highness, or his heirs, might, could or ought to hold, enjoy, use, exercise or execute the same by force and virtue of the said several and respective before recited Letters Patents, or either of them, or any thing in them, or either or any of them, contained or otherwise howsoever. *Provided always*, that these presents be entered with the Auditor General of his said Royal Highness within two months next after the date hereof. In witness whereof the parties above mentioned to these present indentures, interchangeably have set their hands and seals, the day and year first above written.

JAMES.

Sealed and delivered by his Royal Highness, in the presence of
Ro. Werden,
William Crofts,
John Ashton.

THE FUNDAMENTAL CONSTITUTIONS FOR THE PROVINCE OF EAST NEW JERSEY IN AMERICA, ANNO DOMINI 1683 [a]

Since the right of government, as well as soil, is in the four and twenty Proprietors, and that the same is confirmed to them a new by a late patent from James Duke of York, pursuant to patent granted to him from the King; the Proprietors for the well ordering and governing of the said Province, according to the powers conveyed to them, do grant and declare, that the government thereof shall be as followeth, viz.

I. That altho' the four and twenty Proprietors have formerly made choice of Robert Barclay, Esq; for Governor, during his natural life, and to serve by a deputy to be approved of by sixteen of the Proprietors, until he himself be upon the place, which is by these presents ratified and confirmed, to all intents and purposes: Yet after the decease of the said Robert Barclay, or by reason of his malverstation, the Proprietors shall find cause to divest him of the government, the four and twenty Proprietors shall choose a Governor; in order to which it shall be in the power of each of them to name one, and sixteen of the four and twenty shall determine it: which Governor shall be obliged to serve and reside upon the place, and shall only continue for three years; and if any shall directly or indirectly propound or advise the continuance for any longer time, or of new to choose him again, or his son, within the three years, it shall be esteemed a betraying of the publick liberty of the Province; and the actors shall be esteemed as publick enemies; and the said Governor that shall be so continued, shall be reputed guilty of the same, not only by reason of his acceptance of that continuation, but also by reason of any kind of solicitation which he may directly or indirectly have endeavoured. If the Governor so do die before the three years be expired, the Proprietors shall choose one to supply his place, for the time the other should held it, and no longer. *Provided*, that this limitation of three years above mentioned, do not extend to the Deputy Governor of Robert Barclay, for seven years after that passing of those constitutions, who may be for a longer time than three years, if the proprietors see meet.

II. That for the government of the Province, there shall be a great Council, to consist of the four and twenty proprietors, or their proxies in their absence, and one hundred forty-four to be chosen by the freemen of the Province. But forasmuch as there are not at present so many towns built as there may be hereafter, nor the Province divided into such counties as it may be hereafter divided into, and that consequently no certain division can be made how many shall be chosen for each town and county; at present four and twenty shall be chosen for the eight towns that are at present in being, and eight and forty for the county, making together seventy-two, and with the four and twenty Proprietors, ninety-six persons, till such times as the great council shall see meet to call the above mentioned number of one hundred forty-four, and then shall be determined by the great council, how many shall come out of each town and county;

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer. 2d Ed. pp. 153–166.

but every year shall choose one-third, and the first chosen shall remain for three years, and they that go out shall not be capable to come in again for two years after, and therefore they shall not be put in the ballot in elections for that year; and in order to this election, they shall in course meet in their several boroughs and counties the six and twentieth day of March, beginning in the year one thousand six hundred eighty-four, and choose their several representatives; whose first day of meeting shall be the twentieth of April afterwards; and they shall sit upon their own adjournments, if they see meet, till the twentieth of July following, and then to be dissolved till the next year, unless the Governor and common council think fit to continue them longer, or call them in the intervail; but if any of those days fall on the first day of the week, it shall be deferred until the next day.

III. The persons qualified to be freemen, that are capable to choose and be chosen in the great Council, shall be every planter and inhabitant dwelling and residing within the Province, who hath acquired rights to and is in possesion of fifty acres of ground, and hath cultivated ten acres of it; or in boroughs, who have a house and three acres; or have a house and land only hired, if he can prove he have fifty pounds in stock of his own: and all elections must be free and voluntary, but were any bribe or indirect means can be proved to have been used, both the giver and acquirer shall forfeit their priviledge of electing and being elected forever; and for the full preventing of all indirect means, the election shall be after this manner, the names of all the persons qualified in each county, shall be put in equal pieces of parchment, and prepared by the sheriff and his clerk the day before, and at the day of election shall be put in a box, and fifty shall be taken out by a boy under ten years of age; these fifty shall be put into the box again, and the first five and twenty then taken out shall be those who shall be capable to be chosen for that time; the other five and twenty shall by plurality of votes, name (of the aforesaid twenty-five) twelve, if there be three to be chosen, and eight if there be two to stand for it; these nominators first solemnly declaring before the sheriff, that they shall not name any known to them to be guilty for the time, or to have been guilty for a year before, of adultery, whoredom, drunkeness, or any such immorality, or who is insolvent or a fool; and then out of the twelve or eight so nominated, three or two shall be taken by the ballot as above said.

IV. It shall be the priviledge of every member of the great Council, to propose any bill in order to a law, which being admitted to be debated, shall be determined by the vote, wherein two parts of three shall only conclude; but of this, twelve of the Proprietors, or their proxies, must be assenting; which shall also be requisite after the number of freemen are double: Nor shall any law be made or enacted to have force in the Province, which any ways touches upon the goods or liberties of any in it, but what thus passeth in the great Council; and whoever shall levy, collect or pay any money or goods without a law thus passed, shall be held a publick enemy to the Province, and a betrayer of the publick liberty thereof: also the quorum of this great Council shall be half of the Proprietors, or their proxies, and half of the freemen at least; and in determination, the proportionable assent of both Proprietors and freemen must agree, viz. two

parts of whatever number of freemen, and one half of whatever number of Proprietors are present.

V. For the constant government of the Province there shall be with the Governor a common Council, consisting of the four and twenty Proprietors, of their proxies, and twelve of the freemen, which shall be chosen by the ballot out of the freemen of the great Council, and shall successively go off each year as they do; which common Council will thus consist of six and thirty, whereof they shall be three committees; twelve for the public policy, and to look to manners, education and arts; twelve for trade and management of the publick Treasury; and twelve for plantations and regulating of all things, as well as deciding all controversies relating to them: in each committee eight shall be of the Proprietors, or their proxies, and four of the freemen; each of these committees shall meet at least once a week, and all the thirty six once in two months, and oftener, in such places and at such times as they shall find most convenient. And if it happen the number of freemen in the great Council to be doubled, there shall be twelve more of them be added to the common Council; in this common Council and those several committees the one half shall be a quorum, as in the former article.

VI. All laws shall be published and run in the name of the Governor, Proprietors and representatives of the freemen of the Province, and shall be signed by two of the Proprietors, two of the freemen, the Secretary and the Governor for the time being, who shall preside in all meetings, and have two votes, but shall no ways pretend to any negative vote: but if he or they refuse to do his or their duty, or be accused of malversation, he shall be liable to the censure of the Proprietors, and if turned out, there shall be another chosen to fulfil his time as is abovesaid.

VII. Forasmuch as by the Concessions and agreements of the former Proprietors, (to wit) the Lord Berkeley and Sir George Carteret, to and with all and every the adventurers and all such as shall settle and plant in the Province in Anno 1664, it is consented and agreed by the six and seven articles, that the great Assembly should have power, by act confirmed as there expressed, to erect, raise and build within the said Province, or any part thereof, such and so many forts, castles, cities and other places of defence, and the same, or any of them, to fortify and furnish with such provisions and proportions of ordnance, powder, shot, armour and all other weapons, ammunition and abilments of war, both offensive and defensive, as shall be thought necessary and convenient for the safety and welfare of the said Province; as also to constitute train bands and companies, with the number of the soldiers, for the safety, strength and defence of the aforesaid Province; to suppress all mutinies and rebellions; to make war offensive and defensive, against all and every one that shall infest the said Province, not only to keep the enemy out of their limits, but also, in case of necessity, the enemy by sea and land to pursue out of the limits and jurisdiction of the said Province. And that amongst the present Proprietors there are several that declare, that they have no freedom to defend themselves with arms, and others who judge it their duty to defend themselves, wives and children, with arms; it is therefore agreed and consented to, and they the said Proprietors do by these presents agree and consent, that they

will not in this case force each other against their respective judgments and consciences; in order whereunto it is *Resolved*, that on the one side, no man that declares he cannot for conscience sake bear arms, whether Proprietor or planter, shall be at any time put upon so doing in his own person, nor yet upon sending any to serve in his stead. And on the other side, those who do judge it their duty to bear arms for the publick defence, shall have their liberty to do in a legal way. In pursuance whereof, there shall be a fourth committee erected, consisting of six proprietors, or their proxies, and three of the freemen, that are to set in the other three committees, which shall be such as to understand it their duty to use arms for the publick defence; which committee shall provide for the publick defence without and peace within, against all enemies whatsoever; and shall therefore be stiled the committee for the preservation of the publick peace: And that all things may proceed in good order, the said committee shall propound to the great Council what they judge convenient and necessary for the keeping the peace within the said Province, and for publick defence without, by the said great Council to be approved and corrected, as they, according to exigence of affairs, shall judge fit; the execution of which resolutions of the great Council shall be committed to the care of the said committee. But because through the scruples of such of the Proprietors, or their proxies, as have no freedom to use arms, the resolutions of the great Council may be in this point obstructed, it is resolved and agreed, and it is by these presents resolved and agreed, that in things of this nature, the votes of these Proprietors shall only be of weight at such time or times as one of these two points are under deliberation, which shall not be concluded where twelve of the Proprietors and two thirds of the whole Council, as in other cases, are not consenting, (that is to say) first, whether, to speak after the manner of men, (and abstractly from a man's perswasion in matters of religion) it be convenient and suitable to the present condition or capacity of the inhabitants, to build any forts, castles or any other places of defence? If yea; where and in what places (to speak as men) they ought to be erected. Secondly, whether there be any present or future foreseen danger, that may, (to speak as men without respect to one's particular perswasion in matters of religion) require the putting the Province into a posture of defence, or to make use of those means which we at present have, or which, from time to time as occasion may require, according to the capacity of the inhabitants, we may have; which ability and conveniency of those means of defence, and (to speak as men without respect to any man's judgment in matters of religion) the necessity of the actual use thereof, being once resolved upon; all further deliberations about it, as the raising of men, giving of commissions both by sea and land, making Governors of forts, and providing money necessary for maintaining the same, shall belong only to those members of the great Council who judge themselves in duty bound to make use of arms for the defence of them and theirs. *Provided*, that they shall not conclude any thing but by the consent of at least five parts out of six of their number; and that none of the Proprietors and other inhabitants may be forced to contribute any money for the use of arms, to which for conscience

sake they have not freedom, that which is necessary for the publick defence, shall be borne by such as judge themselves in duty bound to use arms. *Provided*, that the other, that for conscience sake do oppose the bearing of arms, shall on the other hand bear so much in other charges, as may make up that portion in the general charge of the Province. And as the refusing to subscribe such acts concerning the use and exercise of arms abovesaid, in the Governor and Secretary, if scrupulous in conscience so to do, shall not be esteemed in them an omission or neglect of duty, so the wanting thereof shall not make such acts invalid, they being in lieu thereof, subscribed by the major part of the six Proprietors of the committees for the preservation of the publick peace.

VIII. The choosing the great and publick officers, as Secretary, Register, Treasurer, Surveyor General, Marshal, and after death of turning out of those now first to be nominated, shall be in the Governor and Common Council; as also of all sheriffs, judges and justices of the peace. But upon any malversation or accusation, they shall be liable to the examination and censure of the great Council, and if condemn'd by them, the Governor and Common Council must name others in their places.

IX. *Provided*, That all boroughs shall choose their own magistrates, and the hundreds in the county, their constables or under officers, in such manner as shall be agreed to by the great Council.

X. Forasmuch as by the Patent, the power of pardoning in capital offences, is vested in the four and twenty Proprietors; it is hereby declared, that the said power of pardoning shall never be made use of but by the consent of eighteen of the Proprietors, or their proxies: Nevertheless, it shall be in the power of the Governor, in conjunction with four Proprietors, who for the time are judges of the Court of Appeals, to reprieve any person after the day of execution appointed, for some time, not exceeding a month.

XI. The four and twenty Proprietors, in their absence, may vote in the great and common Council by their proxies; one Proprietor may be proxy for another, yet so as not but for one, so that none can have above two votes: The proxies of the Proprietors must be such as has shares in properties not under a twentieth part.

XII. That whoever has any place of publick trust in another Province, tho' a Proprietor, shall not sit in the great or common Council, but by their proxies, unless thereunto particularly called by the one or other Council.

XIII. Whatever Proprietor doth not retain at least one fourth part of his propriety, viz: one ninety sixth part of the country, shall lose the right of government, and it shall pass to him who has the greatest share of that propriety, exceeding the above mentioned proportion: But if two or three has each one ninety sixth part, they shall have it successively year about, like as when a propriety is in two hands, he who is upon the place, if the other be absent, sick or under age, shall still have it; but if both there, then by turns as abovesaid; and if in a provided propriety all be absent, the proxies must be constituted by both; if but two or the greater number if there be more. And if any who sells a part of his propriety, and retains one ninety sixth part and the title of the government portion be absent, whoever has shares for him, not under one

ninety sixth part, being present, shall set for him, whether having a proxy or not; and if there be more than one, it shall go by turns as above. But because after sometime by division among children, it may happen that some one twenty fourth part may be so divided, that not any one may have one fourth part of a propriety, or one ninety sixth part of the whole, in that case the Proprietors shall elect one having not under one ninety sixth part, to bear the character of the government for that propriety: But if the county shall fall to be so divided, that there shall not be found four and twenty persons who have one ninety sixth part each; then whoever has five thousand acres, shall be capable to be chosen to be one of the four and twenty, and that by the rest of the Proprietors, by the ballot, each having priviledge to lift one; but this not to take place till forty years after the settlement of these constitutions: And if twenty years after the expiration of the forty years above mentioned, it shall fall out that four and twenty persons cannot be found who have each five thousand acres, it shall be then in the power of the great Council to make a less number of acres sufficient to carry the character of the government, provided they bring it not under three thousand acres (the Proprietors being always electors as abovesaid) no Proprietor under one and twenty years shall be admitted to vote, but during nonage there shall be a proxy appointed by the tutor, and failing that, by the other Proprietors.

XIV. In all civil and ordinary actions, the Proprietors shall be judged after the same manner, and lyable to the same censure with any other; but in all cases that are capital, or may inferr for forfeiture of their trust or Proprietorship, they shall be adjudged by a jury of twelve of the Proprietors, or their proxies, or such as has share in a propriety not under one twentieth part; the bill being first found relievant against them by a grand jury of twelve Proprietors and twelve free men to be chosen by the ballot, as in article nineteen.

XV. For preserving a right balance, no Proprietor shall at any time require or purchase more than his one four and twentieth part of the county; but if by any accident, more fall into the hands of the Proprietors, he may be allowed to dispose of it to his children, tho' under age, yet not so as to acquire to himself more than one vote besides his own; but if such an acquirer have no children he shall be obliged to sell it within one year after he has acquired it, nor shall he evade this by putting in another's name in trust for him; but shall upon his assignment solemnly declare himself to be realy and effectually divested of it for the proper use of him it is assign'd to: And if within three years he find not a merchant, he shall be obliged to dispose of it at the current rate to the rest of the Proprietors, to be holden in common by them, who shall appoint one to bear that character in the government, untill such a share of it fall in one hand, by a former article may render him capable, by the consent of two parts of the other Proprietors, to have the power devolved in him; and if by this or any other accident one or more votes be wanting in the interem, the Proprietors shall name others quallified as above to supply their places.

XVI. All persons living in the Province who confess and acknowledge the one Almighty and Eternal God, and holds themselves obliged in conscience to live peaceably and quietly in a civil society,

shall in no way be molested or prejudged for their religious perswasions and exercise in matters of faith and worship; nor shall they be compelled to frequent and maintain any religious worship, place or ministry whatsoever: Yet it is also hereby provided, that no man shall be admitted a member of the great or common Council, or any other place of publick trust, who shall not profaith in Christ Jesus, and solemnly declare that he doth no ways hold himself obliged in conscience to endeavour alteration in the government, or seeks the turning out of any in it or their ruin or prejudice, either in person or estate, because they are in his opinion hereticks, or differ in their judgment from him: Nor by this article is it intended, that any under the notion of this liberty shall allow themselves to avow atheism, irreligiousness, or to practice cursing, swearing, drunkenness, prophaness, whoring, adultery, murdering or any kind of violence, or indulging themselves in stage plays, masks, revells or such like abuses; for restraining such and preserving of the people in deligence and in good order, the great Council is to make more particular laws, which are punctually to be put in execution.

XVII. To the end that all officers chosen to serve within the Province, may with the more care and deligence answer the trust reposed in them; it is agreed, that no such person shall enjoy more than one public office at one time: But least at first before the country be well planted, there might be in this some inconveniency, it is declared, that this shall not necessarily take place till after the year 1685.

XVIII. All chart, rights, grants and conveyances of land (except leases for three years and under) and all bonds, wills, and letters of administration and specialties above fifty pounds, and not under six months, shall be registered in a publick register in each county, else be void in law; also there is to be a register in each county for births, marriages, burials and servants, where their names, times, wages and days of payment shall be registered: but the method and order of settling those registers is recommended to the great Council; as also the fees which are to be moderate and certain, that the taking of more in any office, directly or indirectly by himself or any other, shall forfeit his office.

XIX. That no person or persons within the said Province shall be taken and imprisoned, or be devised of his freehold, free custom or liberty, or be outlawed or exiled, or any other way destroyed; nor shall they be condemn'd or judgment pass'd upon them, but by lawful judgment of their peers: neither shall justice nor right be bought or sold, defered or delayed, to any person whatsoever: in order to which by the laws of the land, all tryals shall be by twelve men, and as near as it may be, peers and equals, and of the neighborhood, and men without just exception. In cases of life there shall be at first twenty-four returned by the sheriff for a grand inquest, of whom twelve at least shall be to find the complaint to be true; and then the twelve men or peers to be likewise returned, shall have the final judgment; but reasonable challanges shall be always admitted against the twelve men, or any of them: but the manner of returning juries shall be thus, the names of all the freemen above five and twenty years of age, within the district or boroughs out of which the jury is to be returned, shall be written on equal peices of parchment and put into a box, and then the number of the jury shall be drawn out by a child under

ten years of age. And in all courts persons of all perswasions may freely appear in their own way, and according to their own manner, and there personally plead their own causes themselves, or if unable, by their friends, no person being allowed to take money for pleading or advice in such cases: and the first process shall be the exhibition of the complaint in court fourteen days before the tryal, and the party complain'd against may be fitted for the same, he or she shall be summoned ten days before, and a copy of the complaint delivered at their dwelling house: But before the complaint of any person be received, he shall solemnly declare in court, that he believes in his conscience his cause is just. Moreover, every man shall be first cited before the court for the place where he dwells nor shall the cause be brought before any other court but by way of appeal from sentence of the first court, for receiving of which appeals, there shall be a court consisting of eight persons, and the Governor (protempore) president thereof, (to wit) four Proprietors and four freemen, to be chosen out of the great Council in the following manner, viz. the names of sixteen of the Proprietors shall be written on small pieces of parchment and put into a box, out of which by a lad under ten years of age, shall be drawn eight of them, the eight remaining in the box shall choose four; and in like manner shall be done for the choosing of four of the freemen.

XX. That all marriages not forbidden in the law of God, shall be esteemed lawful, where the parents or guardians being first acquainted, the marriage is publickly intimated in such places and manner as is agreeable to mens different perswasions in religion, being afterwards still solemnized before creditable witnesses, by taking one another as husband and wife, and a certificate of the whole, under the parties and witnesses hands, being brought to the proper register for that end, under a penalty if neglected.

XXI. That all witnesses coming or called to testify their knowledge in or to any matter or thing in any court or before any lawful authority within the Province, shall there give and deliver in their evidence by solemnly promissing to speak the truth, the whole truth and nothing but the truth to the matter in question. And in case any person so doing shall be afterwards convict of willful falsehood, both such persons as also those who have proved to have suborn, shall undergo the damage and punishment both in criminal and in civil; the person against whom they did or should have incurred, which if it reach not his life, he shall be publickly exposed as a false witness, never afterwards to be credited before any court; the like punishment in cases of forgery, and both criminals to be stigmatized.

XXII. Fourteen years quiet possession shall give an unquestionable right, except in cases of infants, lunaticks or married women, or persons beyond sea or in prison. And whoever forfeits his estate to the government by committing treason against the Crown of England, or in this Province, or by any other capital crime, the nearest of kin may redeem it within two months after the criminals death, by paying to the public treasury not above one hundred pounds, and not under five pounds sterling, which proportion the common Council shall determine, according to the value of the criminals estate, and to the nature of the offence; reparation to any who have suffered by him, and payment of all just debts being always allowed.

XXIII. For avoiding innumerable multitude of statutes, no act to be made by the great Council shall be in force above fifty years after it is enacted; but as it is then *de novo* confirmed, allways excepting these four and twenty fundamental articles, which, as the primitive charter, is forever to remain in force, not to be repealed at any time by the great Council, tho' two parts of the Council should agree to it, unless two and twenty of the four and twenty Proprietors do expressly also agree, and sixty six of seventy two freemen; and when they are one hundred forty four, one hundred thirty two of them; and also this assent of the Proprietors must be either by their being present in their own persons, or giving actually their votes under their hands and seals (if elsewhere) and not by proxies; which solemn and express assent must also be had in the opening of mines of gold and silver; and if such be opened, one third part of the profit is to go to the publick Treasury; one third to be divided among the four and twenty Proprietors, and one third to Proprietor or planter in whose ground it is; the charges by each proportionably borne.

XXIV. It is finally agreed, that both the Governor and the members of the great and common Council, the great officers, judges, sheriffs and justices of the peace, and all other persons of public trust, shall before they enter actually upon the exercise of any of the employs of the Province, solemnly promise and subscribe to be true and faithful to the king of England, his heirs and successors, and to the Proprietors, and he shall well and faithfully discharge his office in all things according to his commission, as by these fundamental constitutions is confirmed, the true right of liberty and property, as well as the just ballance both of the Proprietors among themselves, and betwixt them and the people: it's therefore understood, that here is included whatever is necessary to be retained in the first Concessions, so that henceforward there is nothing further to be proceeded upon from them, that which relates to the securing of every man's land taken up upon them, being allways excepted. *And provided also*, that all judicial and legal proceedings heretofore done according to them, be held, approved and confirmed.

Drummond. Robert Burnet. Bar. Gibson. Robert Gordon. Gawn Lawry. Perth. William Gibson. William Dockwra. Thos. Hart. Thomas Barker and as proxy for Ambrose Riggs. Clement Plumstead, proxy for Barclay. Ar. Sonmans. Robert Turner and Thomas Cooper.

THE KING'S LETTER RECOGNIZING THE PROPRIETORS' RIGHT TO THE SOIL AND GOVERNMENT—1683 [a]

Charles, R.

Whereas his Majesty for divers good causes and considerations him thereunto moving, by Letters Patents bearing date the twenty-ninth day of June, Anno Domini 1674, in the twenty-sixth year of his Majesty's reign, was pleased to give and grant unto his dearest

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer, 2d ed., pp. 151–152.

brother James, Duke of York, several territories, islands, and tracts of land in America, part of which were since called by the name of Nova Caesarea or New Jersey, and was vested in John Lord Berkeley, of Stratton, and Sir George Carteret, Knight and Baronet, who were both of his Majesty's most honourable Privy Council, and in their heirs and assigns: And the east part or portion of the said Province of New Jersey, by a certain deed of partition afterwards made, became the share of the said Sir George Carteret, his heirs and assigns, and was agreed to be called East New Jersey, and was since assigned to the present Proprietors. AND WHEREAS his Royal Highness, James, Duke of York, by his endenture bearing date the fourteenth day of March, Anno Dom. 1682, in the thirty-fifth year of his Majesty's reign (for the consideration therein mentioned) did grant and confirm the said Province of East New Jersey, (extending eastward and northward all along the sea coast and Hudson's river, from Little Egg Harbour, to that part of Hudson's river which is in forty-one degrees of northern lattitude, and otherways bounded and limited as in said grant and confirmation, relation being thereunto had, may more particularly and at large appear) unto James, Earl of Perth, John Drummond of Lundie; as also unto Robert Barckly, of Eury, Esq; Robert Gordon, of Clunie, Esq; and others, his Majesty's loving subjects in England, Scotland, and elsewhere, to the number of twenty-four grantees, and to their heirs and assigns forever; together with all powers and jurisdiction necessary for the good government of the said Province. His Majesty therefore doth hereby declare his royal will and pleasure, and doth strictly charge and command the planters and inhabitants, and all other persons concerned in the said Province of East New Jersey, that they do submit and yield all due obedience to the laws and government of the said grantees, their heirs and assigns, as absolute Proprietors and Governors thereof, (who have the sole power and right derived under his Royal Highness from his said Majesty, to settle and dispose of the said Province upon such terms and conditions as to them shall seem good) as also to their deputy or deputies, agents, lieutenants, and officers, lawfully commissionated by them according to the powers and authorities granted to them. And of this his Majesty's royal will and pleasure, the Governor and Council is required to give publick notice, his Majesty expecting and requiring forthwith a due compliance with this his royal will and pleasure, from all persons as well without the Province as within the same, (who these presents do or may concern) as they will answer the contrary thereof at their peril. Given at the Court of Whitehall, the twenty-third day of November, 1683, in the thirty-fifth year of his Majesty's reign.

By his Majesty's command,

SUNDERLAND.

To the Governor and Council of East New Jersey, for the time being, and to the planters, inhabitants, and all others concerned in the said Province.

THE QUEEN'S ACCEPTANCE OF THE SURRENDER OF GOVERNMENT[a]

At the Court of St. James's the 17th day of April, 1702

PRESENT

The Queen's most Excellent Majesty.

His Royal Highness, Prince George of Denmark,	Earl of Radnor,
Lord Keeper,	Earl of Barkeley,
Lord President,	Earl of Rochester,
Lord Steward,	Earl of Marlborough,
Duke of Bolton,	Earl of Bradford,
Duke of Schonberg,	Earl of Romney,
Duke of Leeds,	Earl of Renalagh,
Lord Great Chamberlain,	Lord Ferrers,
Earl Marshall,	Lord Godolphin,
Lord High Admiral,	Mr. Comptroller,
Lord Chamberlain,	Mr. Vice Chamberlain,
Earl of Dorset,	Mr. Secretary Vernon,
Earl of Manchester,	Mr. Chancellor of the Exchequer,
Earl of Stamford,	Lord Chief Justice,
Earl of Burlington,	Sir Charles Hedges,
	Mr. Smith,

This day the several Proprietors of East and West New Jersey in America, did in person present a deed of surrender by them executed under their hands and seals, to her Majesty in Council, and did acknowledge the same to be their act and deed, and humbly desire her Majesty accept the same, that it might be enrolled in the Court of Chancery, whereby they did surrender their power of the Government of those plantations: Which her Majesty graciously accepted, and was pleased to order as it is hereby ordered, that the same be enrolled in her Majesty's said High Court of Chancery, whereby they did surrender their power of the Government of those plantations which her Majesty graciously accepted and was pleased to order, as it is hereby ordered, that the same be enrolled in her Majesty's said High Court of Chancery, and the said instruments are to be delivered to Mr. Attorney General, who is to take care that the same be enrolled accordingly.

A true copy.

W. SHARPE.

17 March 1747,

Examined the foregoing copy with the entry, remaining in the register book, in the office of his Majesty's privy Council at Whitehall, and found the same to contain a true copy.

JAMES HAMILTON,

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer, 2 ed., pp. 617–618.

7 October, 1747

Examined the foregoing copy, with the entry remaining in the register book in the office of his Majesty's privy Council at Whitehall, and found the same to contain a true copy.

JOHN WADDELL,

Be it remembered, that on the tenth day of September, 1748, John Waddell of the city of New York, merchant, appeared before Robert Hunter Morris, Esq; Chief Justice of the Province of New Jersey, and being duly sworn on the holy evangelists, on his oath declared, that the name of John Waddell, signed to the preceding certificate of the 7th of October, 1747, is the proper hand writing of the declarant, and that the matter contained in the said certificate is true,

JOHN WADDELL.

Sworn as above, before me,
ROBERT HUNTER MORRIS.

Agrees with an attested copy, being carefully examined and corrected by me,

JOHN SMITH,
Register of the Proprietors of East New Jersey.

SURRENDER FROM THE PROPRIETORS OF EAST AND WEST NEW JERSEY, OF THEIR PRETENDED RIGHT OF GOVERNMENT TO HER MAJESTY—1702 [a]

WHEREAS his late Majesty King Charles the Second, by his Letters Patents under the great seal of England, bearing date at Westminster on or about the 12th day of March, in the sixteenth year of his reign, did give and grant to James then Duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place called or known by the name of Saint Croix, next adjoining to New Scotland in America, and from thence extending along the sea-coast unto a certain place called Pemaquod or Pemaquid, and so up the river thereof to the furthest head of the same, as it tends northward, and extending from thence to the river of Kenibique, and so upwards by the shortest course to the river Canada, northward; and also all that island or islands commonly called by the several name or names of Manowacks, or Long Island, situate, lying and being towards the west of Cape Codd and the Narrohigansets, abutting upon the main land between the two rivers there, called or known by the several names of Connecticut and Hudson's river; together also with the said river called Hudson's river, and all the lands from the west side of Connecticut river to the east side of Delaware bay. And also all those several islands called or known by the names of Martin's Vinyard, and Nantucks or Nantucket, together with all the lands, islands, soils, rivers, harbours, mines, minerals, quarries, woods, marshes, waters, lakes, fishings, hawkings, hunting, and fowling, and all other royalties, profits, commodities and hereditaments to the several islands, lands, and premises,

[a] Verified by "Grants and Concessions of New Jersey." Leaming & Spicer. 2d Ed. pp. 609–618.

belonging and appertaining, with their and every of their appurtenances, *to have and to hold* all and singular the said lands, islands, hereditaments, with their and every of their appurtenances, to the said James Duke of York, his heirs and assigns forever, to be held of the said King, his heirs and successors as of his manor of East Greenwich in Kent, in free and common soccage and not in capite or by knight's service, yielding and rendering therefore yearly and every year, forty beaver skins when demanded, or within ninety days after: And by the same Letters Patents the late King Charles the Second, for himself, his heirs and successors, did give and grant to the said James Duke of York, his heirs, deputies, agents, commissioners and assigns, full and absolute power and authority to correct, punish, pardon, govern and rule all such subjects of the said King, his heirs and successors, as should from time to time adventure themselves into the parts and places aforesaid, or that should at any time then after inhabit within the same, according to such laws, orders, ordinances, directions and instructions as by the said Duke of York, or his assigns, should be established; and in defect thereof, in case of necessity, according to the good directions of his deputies, commissioners, officers or assigns respectively, as well in all causes and matters as well capital and criminal as civil, both marine and others, so always as the said statutes, ordinances and proceedings were not contrary, but as near as might be agreeable to the laws and statutes and government of the realm of England, saving and reserving to his said Majesty, his heirs and successors, the receiving, hearing and determining, of the appeal and appeals of all or any other person or persons of, in or belonging to the territories or islands aforesaid, in or touching any judgment or sentence to be there made or given; and further that it should and might be lawful to and for the said Duke of York, his heirs and assigns, from time to time to nominate, constitute, ordain and confirm such laws as aforesaid, by such name or names or stiles as to him or them shall seem good; and likewise to revoke, discharge, change and alter as well all and singular Governors, officers and ministers, which then after should be by him or them thought fit or needful to be made or used within the aforesaid parts and islands; and also to make, ordain and establish, all manner of orders, laws, directions, instructions, forms and ceremonies of government and magistracy, fit and necessary for and concerning the government of the Territories and islands aforesaid, so always as the same were not contrary to the laws and statutes of the realm of England, but as near as might be agreeable thereunto; and the same at all times then after to put in execution or abrogate, revoke or change, not only within the precinct of the said Territories or islands, but also upon the seas in going and coming to and from the same, as he and they in their good direction should think to be fittest for the good of the adventurers and inhabitants there. And the late King did thereby grant, ordain and declare, that such Governors, officers, ministers as from time to time should be authorized and appointed in manner and form aforesaid, should and might have full power and authority to use and exercise martial law in cases of rebellion, insurrection and mutiny, in as large and ample manner as the lieutenants of his said Majesty in his counties of the realm of England had, or ought to have, by their commissions of lieutenancy, or any law or statute of the said realm of England. And the said late King did

thereby also for himself, heirs and successors, grant to the said James Duke of York, that it should and might be lawful for him, his heirs and assigns, in his or their discretions, from time to time, to admit such and so many person or persons to trade and traffick unto and within the Territories and islands aforesaid, and into every or any part or parcel thereof, and to have process and enjoy any lands and hereditaments in the parts and places aforesaid, as they should think fit, according to the laws, orders, constitutions and ordinances by the said James Duke of York, his heirs, deputies, commissioners and assigns from time to time to be made and established, by virtue of and according to the true intent and meaning of the said Letters Patents, and under such conditions, reservations and agreements as the said James Duke of York, his heirs and assigns should set down, order, direct and appoint, and not otherwise. And by the said Letters Patents the said King did for himself his heirs, and successors, grant to the said James Duke of York, his heirs and assigns, and to all and every such Governor and Governors or other officers or ministers as by the said James Duke of York, his heirs or assigns, should be appointed, with power and authority of government and command in or over the inhabitants of the said Territories or islands, that they and every of them should, or lawfully might, from time to time, and at all times then after or for ever, for their several defence and safety, encounter, expulse, repel and resist by force of arms, as well by sea as by land, and all ways and means whatsoever, all such person or persons as without the especial licence of the said James Duke of York, his heirs and assigns, should attempt to inhabit within the several precincts and limits of the said territories and islands; and also all and every such person and persons whatsoever as should enterprize, or attempt at any time then after, the destruction or invasion, detriment or annoyance to the parts, places or islands aforesaid, or any part thereof; as by the said recited Letters Patents duly enrolled, relation thereunto had, more at large may appear. *And whereas* the estate, interest, right and title of the said James Duke of York, in and to the Provinces of East Jersey and West Jersey, part of the premises by the said recited Letters granted, are by mean conveyances and assurances in the law, come unto and vested in or claimed amongst others by Sir Thomas Lane, Paul Dominique, Robert Mitchell, Joseph Brooksbank, Michael Watts, Edward Richier, John Norton, Ebenezer Jones, John Whiting, John Willcocks, John Bridges, Thomas Skinner, Benjamin Steell, Obediah Burnett, Joseph Micklethwait, Elizabeth Miller, Benjamin Levy, Francis Minshall, Joseph Collier, Thomas Lewis, Jo. Bennet, John Booker, Benjamin Nelson, James Wassee, Richard Harrison, John Jurin, Richard Greenaway, Charles Mitchell, Francis Mitchell, Tracy Paunceford, William Hamond, Ferdinando Holland, William Dockwra, Peter Sonmans, Joseph Grimston, Charles Ormston, Edward Antill, George Willocks, Francis Handcock, Thomas Barker, Thomas Cooper, Robert Burnet, Miles Forster, John Johnstone, David Lyell, Michael Hawdon, Thomas Warne, Thomas Gordon, John Barclay, Clement Plumstead, Gilbert Mollison, and Richard Hasel, the present Proprietors thereof, and they also have claimed, by virtue of the said Letters Patents and mean conveyances to exercise within the said Provinces for the governing the inhabitants thereof, all the powers and authorities for government granted by the said Letters Patents

to the said Duke and his heirs and assigns; but her Majesty hath been advised, that they have no right nor can legally execute any of the said powers, but that it belongeth to her Majesty in right of her Crown of England to constitute Governors of the said Provinces, and to give directions for governing of the inhabitants thereof, as her Majesty shall think fit. And the said Proprietors being desirous to submit themselves to her Majesty, are willing to surrender all their pretences to the said powers of government, to the intent her Majesty may be pleased to constitute a Governor or Governors of the same Provinces, with such powers, privileges and authorities for the government thereof, and making of such laws there with the consent of the Assembly of the said Provinces, and her Majesty's subsequent approbation thereof, as her Majesty in her great wisdom shall think fit and convenient. We therefore the said Sir Thomas Lane, Paul Dominique, Robert Mitchell, Joseph Brooksbanke, Machael Watts, Ed. Richier, John Norton, Ebenezer Jones, John Whiting, Clement Plumstead, John Wilcocks, John Bridges, Thomas Skinner, Benjamin Steele, Obadiah Burnet, Joseph Michlethwait, Elizabeth Miller, Benjamin Levy, Francis Minshall, Joseph Collier, Thomas Lewes, Jo. Bennet, John Booker, Benjamin Nelson, James Wasse, Richard Harrison, John Jurin, Richard Greenaway, Charles Mitchell, Francis Mitchell, Tracy Paunceford, William Hamond, Ferdinando Holland, William Docwra, Peter Sonmans, Joseph Grinston, Charles Ormston, Edward Anthill, George Wilcoks, Francis Hancock, Thomas Barker, Thomas Cooper, Robert Burnett, Miles Forster, John Johnston, David Lyell, Michael Hawdon, Thomas Warne, Thomas Gordon, John Barclay, Gilbert Molleson, and Richard Hasell, &c. the present Proprietors of the said Provinces of East Jersey, and West Jersey, for the consideration and to the intent aforesaid, have surrendered and yielded up, and by these presents for us and our heirs, do surrender and yield up unto our Sovereign Lady ANNE by the grace of God Queen of England, Scotland, France, and Ireland, Defender of the Faith, &c. her heirs and successors, all these the said powers and authorities to correct, punish, pardon, govern and rule all or any of her Majesty's subjects or others, who now are or inhabit or hereafter shall adventure into or inhabit within the said Provinces of East Jersey, and West Jersey, or either of them; and also to nominate, make, constitute, ordain and confirm any laws, orders, ordinances and directions and instruments for those purposes or any of them; and to nominate, constitute or appoint, revoke, discharge, change or alter any Governor or Governors, officers or ministers which are or shall be appointed, made or used within the said Provinces or either of them; and to make, ordain and establish any orders, laws, directions, instruments, forms or ceremonies of government and magistracy, for or concerning the government of the Provinces aforesaid or either of them, or on the sea in going and coming to or from thence, or to put in execution, or abrogate, revoke or change such as are already made for or concerning such government, or any of them; and also all those the said powers and authorities to use and exercise martial law in the places aforesaid, or either of them, and to admit any person or persons to trade or traffick there, and of encountering, repelling and resisting by force of arms any person or persons attempting to inhabit there without the licence of us the said Proprietors, our heirs and assigns, and all other the

powers, authorities and privileges of or concerning the government of the Provinces aforesaid, or either of them to the inhabitants thereof, which were granted or mentioned to be granted by the said recited Letters Patents, and every of them. *In witness* whereof the persons above named have hereunto set their hands and seals this fifteenth day of April, in the year of our Lord one thousand seven hundred and two, and in the first year of her Majesty's reign.

For the Eastern Division

L. Morris, in behalf of Robert Burnett,
Miles Forster,
John Johnstone,
Michael Hawdon,
John Barclay,
David Lyell,
Thomas Warne,
Thomas Gordon,
Thomas Barker,
Thomas Cooper,
Gilbert Mollison,
Henry Adderly, for Richard Hasel of Barbados.
William Dockwra,
Peter Sonmans,
Joseph Ormston, for myself, and as proxy for Charles Ormston, Edward Anthill, and George Willocks, and Representative of Francis Hancock,
Thomas Lane,
Paul Dominique,
Robert Mitchell,
Joseph Brooksbank,
E. Richier,
Michael Watts,
Clement Plumstead.

For the Western Division

Benjamin Nellson,
James Wasse,
Richard Harrison,
John Jurin,
Richard Greenaway,
Charles Michell,
Francis Michell,
Francis Paunceford,
Wm. Hamond,
Ferd. Holland,
Elizabeth Miller,
Benjamin Levy,
Francis Minshall,
Joseph Collin,
Thomas Lewis,
Jo. Bennet,
John Booker,
John Whiting,
John Wilcocks,
John Bridges,
Thomas Skinner,
Benjamin Steel,
Obadiah Burnett,
Jos. Micklethwait,
Thomas Lamb,
Paul Dominique,
Robert Michell,
Jos. Brooksbanks,
Michael Watts,
E. Richier,
John Norton,
Eben. Jones.

Sealed and delivered by Thomas Lane, Paul Domininque, Robert Mitchell, Joseph Brooksbanks, Michael Watts, Edward Richier, John Norton, Ebenezer Jones, John Whiting, John Willcocks, John Bridges, Thomas Skinner, Benjamin Steel, Obadiah Burnett, Joseph Micklethwait, Elizabeth Miller, Benjamin Levy, Francis Minshall, Joseph Collier, Thomas Lewis, John Bennett, John Booker, Benjamin Nelson, James Wasse, Richard Harrison, John Jurin, Richard Greenaway, Charles Mitchell, Francis Mitchell, Tracy Pauncefort, William Hamond, Ferdinando Holland. And for the interest the

Proprietors of West Jersey, have in East Jersey, Thomas Lane, Paul Dominique, Robert Mitchel, Joseph Brooksbank, Edward Richier and Michael Watts.

Sealed and delivered by the aforesaid persons in the presence of us.
L. Morris,
Jonathan Greenwood,

Sealed and delivered by William Docwra, Peter Sonmans, Joseph Ormston, Thomas Barker and Thomas Cooper, Proprietors of East Jersey, in the presence of us.
Richard Bouts,
Nathaniel Welch,

Sealed and delivered by Gilbert Mollesson, in presence of us.
Daniel Wild,
Gilbert Falconer.

Sealed and delivered by Clement Plumstead, in presence of us.
John Askew,
Samuel Hannington.

Sealed and delivered by Henry Adderly, in presence of us.
John Blackall,
Thomas Cage,

Sealed and delivered by Lewis Morris, in presence of
Aug. Graham,
Richard Bibby.

I do hereby certify that this is a true copy from the books in the plantation office.

Whitehall, January 17, 1752.

Samuel Gellibrand, *D. Secretary.*

CHARLES II'S GRANT OF NEW ENGLAND TO THE DUKE OF YORK, 1676—EXEMPLIFIED BY QUEEN ANNE, 1712[a]

Anne, by the grace of God, of Great Britain, France and Ireland, Queen, Defender of the Faith, &c. To all to whom these our present letters shall come greeting: Know ye, that among the records remaining in our Secretary's Office of our Province of New York, in America, at our fort at New York, We have inspected certain Letters Patents granted unto his late Royal Hiness James, Duke of York, deceased, which followeth in these words.

Charles the Second, by the grace of God King of England, Scotland, France and Ireland, Defender of the Faith, &c. To all to whom these presents shall come greeting: Know ye, that we for divers good causes and considerations us thereunto moving, have of our especial grace, certain knowledge, and meer motion, given and granted, and by these presents for us, our heirs and successors, do give and grant unto our dearest brother James, Duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix, next adjoining to New Scotland in America; and from thence extending along the sea coast unto a certain place called Petuaquine

[a] Verified by "Grants and Concessions of New Jersey," Leaming & Spicer. 2d Ed. pp. 3–8.

or Pemaquid, and so up the river thereof to the farthest head of the same as it tendeth northward; and extending from thence to the river of Kenebeque, and so upwards by the shortest course to the river of Canada northward. And also all that Island or Islands, commonly called by the several name or names of Matowacks or Long Island, scituate, lying and being towards the west of Cape Codd and the Narrow Higansetts, abutting upon the main land between the two rivers there, called or known by the several names of Conecticut or Hudsons river; together also with the said river called Hudsons river, and all the lands from the west side of Conecticut, to the east side of Delaware Bay. And also all those several islands called or known by the names of Martin's Vineyard and Nantukes or otherwise Nantukett; together with all the lands, islands, soiles, rivers, harbours, mines, minerals, quarries, woods, marshes waters, lakes, fishings, hawkings, huntings and fowling; and all other royalty's, profits, commodities and hereditaments to said several islands, lands and premises belonging and appertaining, with their and every of their apurtenances; and all our estate, right, title, interest, benefit, advantage, claim and demand of, in or to the said lands and premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders; together with the yearly and other the rents, revenues and profits of all and singular the said premises, and of every part and parcel thereof; to have and to hold all and singular the said lands, islands, heriditaments, and premisses, with their and every of their appurtenances, hereby given and granted, or herein before mentioned to be given and granted unto our dearest brother James Duke of York, his heirs and assigns forever; to the only proper use and behoof of the said James Duke of York, his heirs and assigns forever; to be holden of us, our heirs and successors, as of our mannor of East Greenwich in our County of Kent, in free and common soccage, and not in capitie, nor by night service yielding and rendering. And the said James Duke of York, doth for himself, his heirs and assigns, covenant and promise to yield and render unto our heirs and successors, of and for the same and every year, forty beaver skins when they shall be demanded, or within ninety days after. And we do further of our special grace, certain knowledge and meer motion, for us, our heirs and successors, give and grant unto our said dearest brother James Duke of York, his heirs, deputies, agents, commissioners and assigns, by these presents, full and absolute power and authority to correct, punish, pardon, govern and rule all such the subjects of us, our heirs and successors, as shall from time to time adventure themselves into any the parts or places aforesaid; or that shall or do at any time hereafter inhabit within the same, according to such laws, orders, ordinances, directions and instruments as by our said dearest brother, or his assigns, shall be established; and in defect thereof, in case of necessity, according to the good discretions of his deputy's, commissioners, officers or assigns respectively; as well in all causes and matters capital and criminal, as civil both marine and others; so always as the said statutes, ordinances and proceedings be not contrary to, but as near as conveniently may be, agreeable to the laws, statutes and government of this our realm of England; and saving and reserving to us, our heirs and successors, the receiving, hearing, and determining of the appeal and appeals of all or any person or persons of, in or belonging to the territories or islands

aforesaid, in or touching any judgment or sentence to be there made or given. And further, that it shall and may be lawful to and for our said dearest brother, his heirs and assigns, by these presents from time to time, to nominate, make, constitute, ordain and confirm, by such name or names, stile or stiles, as to him or them shall seem good, and likewise to revoke discharge, change and alter as well all and singular governor's, officers and ministers which hereafter shall be by him or them thought fit and needful to be made or used within the aforesaid parts and islands: And also to make, ordain and establish all manner of orders, laws, directions, instructions, forms and ceremonies of government and magistracy fit and necessary for and concerning the government of the territories and islands aforesaid; so always that the same be not contrary to the laws and statutes of this our realm of England, but as near as may be agreeable thereunto; and the same at all times hereafter to put in execution or abrogate, revoke or change, not only within the precincts of the said territories or islands, but also upon the seas in going and coming to and from the same, as he or they in their good discretions shall think to be fitest for the good of the adventurers and inhabitants there. And we do further of our special grace, certain knowledge, and meer motion, grant, ordain and declare, that such governors, officers, and ministers as from time to time shall be authorized and appointed in manner and form aforesaid, shall and may have full power and authority to use and exercise marshall law in cases of rebellion, insurrection and mutiny, in as large and ample manner as our lieutenants in our counties within our realm of England have or ought to have, by force of their commission of lieutenancy, or any law or statute of this our realm. And we do further by these presents, for us, our heirs and successors, grant unto our said dearest brother James Duke of York, his heirs and assigns, that it shall and may be lawful to and for the said James Duke of York, his heirs and assigns, in his or their discretion from time to time, to admit such and so many person or persons to trade and traffique unto and within the said territories and islands aforesaid, and into every or any part and parcel thereof; and to have, possess and enjoy any lands or hereditaments in the parts and places aforesaid, as they shall think fit, according to the laws, orders, constitutions and ordinances by our said brother, his heirs, deputies, commissioners and assigns from time to time to be made and established by virtue of, and according to the true intent and meaning of these presents; and under such conditions, preservations and agreements as our said brother, his heirs or assigns shall set down, order, direct and appoint and not otherwise as aforesaid. And we do further of our especial grace, certain knowledge, and meer motion for us, our heirs and successors, give and grant unto our said dearest brother, his heirs and assigns, by these presents, that it shall and may be lawful to and for him, them or any of them, at all and every time and times hereafter, out of any our realms or dominions whatsoever, to take, lead, carry and transport in and into their voyages, and for and towards the plantations of our said territories and islands, all such and so many of our loving subjects, or any other strangers, being not prohibited or under restraint, that will become our loving subjects and live under our allegiance, as shall willingly accompany them in the said voyages; together with all such cloathing, implements, furniture and other things usually transported, and

not prohibited, as shall be necessary for the inhabitants of the said islands and territories, and for their use and defence thereof, and managing and carrying on the trade with the people there; and in passing and returning to and fro, yielding and paying to us, our heirs and successors, the customs and duties therefor due and payable, according to the laws and customs of this our realm. And we do also for us, our heirs and successors, grant to our said dearest brother James Duke of York, his heirs and assigns, and to all and every such governor or governors, or other officers or ministers as by our said brother, his heirs or assigns, shall be appointed; to have power and authority of government and command in or over the inhabitants of the said territories or islands, that they and every of them shall and lawfully may from time to time, and at all times hereafter for ever, for their several defence and safety, encounter, expulse, repell, and resist, by force of arms as well by sea as by land, and all ways and means whatsoever, all such person and persons as without the special license of our said dearest brother, his heirs and assigns, shall attempt to inhabit within the several precincts and limits of our said territories and islands. And also, all and every such person and persons whatsoever, as shall enterprize or attempt at any time hereafter the destruction, invasion, detriment or annoyance to the parts, places or islands aforesaid or any part thereof. And lastly, our will and pleasure is, and we do hereby declare and grant, that these our letters patents, or the inrollment thereof, shall be good and effectual in the law to all intents and purposes whatsoever, notwithstanding the not reciting or mentioning of the premises or any part thereof, or the meets or bounds thereof, or of any former or other letters patents or grants heretofore made or granted of the premises, or of any part thereof, by us or of any of our progenitors, unto any other person or persons whatsoever, bodies politick or corporate, or any act, law or other restraint, incertainty, or imperfection whatsoever to the contrary in any wise notwithstanding; altho' express mention of the yearly value or certainty of the premises, or any of them, or of any other gifts or grants by us, or by any of our progenitors or predecessors heretofore made to the said James Duke of York, in these presents is not made, or any statute, act, ordinance, provision, proclamation or restriction, heretofore had, made, enacted, ordained or provided, or any other matter, cause or thing whatsoever to the contrary thereof in any wise notwithstanding. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the twelfth day of March, in the sixteenth year of our reign. By the King, Howard.

All which by the tenor of these presents we have caused to be exemplyfied. In testimony whereof we have caused our seal of our said Province of New York to be hereunto affixed. WITNESS our trusty and well beloved Robert Hunter, Esq.; our Captain General and Governor in Chief of our Provinces of New York, New Jersey and Territories thereon depending in America, and Vice Admiral of the same, and at our Fort at New York, this thirtieth day of October, in the tenth year of our reign.

H. Wileman, *Dep. Scry.*

CONSTITUTION OF NEW JERSEY—1776 * [a]

WHEREAS all the constitutional authority ever possessed by the kings of Great Britain over these colonies,[b] or their other dominions, was, by compact, derived from the people, and held of them, for the common interest of the whole society; allegiance and protection are, in the nature of things, reciprocal ties, each equally depending upon the other, and liable to be dissolved by the others being refused or withdrawn. And whereas George the Third, king of Great Britain, has refused protection to the good people of these colonies; and, by assenting to sundry acts of the British parliament, attempted to subject them to the absolute dominion of that body; and has also made war upon them, in the most cruel and unnatural manner, for no other cause, than asserting their just rights—all civil authority under him is necessarily at an end, and a dissolution of government in each colony has consequently taken place.

And whereas, in the present deplorable situation of these colonies, exposed to the fury of a cruel and relentless enemy, some form of government is absolutely necessary, not only for the preservation of good order, but also the more effectually to unite the people, and enable them to exert their whole force in their own necessary defence: and as the honorable the continental congress, the supreme council of the American colonies, has advised such of the colonies as have not yet gone into measures, to adopt for themselves, respectively, such government as shall best conduce to their own happiness and safety, and

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* Verified from "Acts of the General Assembly of New Jersey, compiled by Peter Wilson, Trenton, MDCCCLXXXIV." pp. III–X

See, also Extracts from the Journal of Proceedings of the Provincial Congress of New Jersey. Held at Trenton in the months of May, June and August, 1775. Published by order. Burlington: Printed and sold by Isaac Collins M.DCC.LXXV. Woodbury, N. J. Reprinted by order. Joseph Sailer, Printer, 1835. pp. 241.

Journal of the Votes and Proceedings of the Convention of New Jersey. Begun at Burlington the Tenth of June 1776, and thence continued by Adjournment at Trenton and New Brunswick, to the Twenty-first of August following. To which is annexed, Sundry Ordinances, and the Constitution. Published by order. Burlington: Printed and sold by Isaac Collins, M.DCC.LXXVI. Trenton: Reprinted by order. Joseph Justice, Printer. 1831.

* These grants embraced all the lands from the west side of the Connecticut River to the east side of Delaware Bay.

† This grant was made by the Duke of York to Lord John Berkeley and Sir George Carteret, two months before the expedition which he had fitted out had taken possession of the territory, now the State of New Jersey, which had been settled by the Dutch colonists of the New Netherlands.

‡ These "concessions," amended at different times, were the organic law of the provinces of New Jersey, East Jersey, and West Jersey, until the proprietors and their successors surrendered their rights to the Crown in 1702. The reunited province of New Jersey was thenceforth governed by royal governors, the people ever insisting upon their rights as established in the "concessions," until the Revolution.

[a] This constitution was framed by a convention which assembled in accordance with the recommendation of the Continental Congress that the people of the colonies should form independent State governments, and which was in session, with closed doors, successively, at Burlington, Trenton, and New Brunswick, from May 26, 1776, until July 2, 1776, with intermissions. It was not submitted to the people, but its publication was ordered by the convention, July 3, 1776.

[b] The legislature of New Jersey amended this constitution September 20, 1777, by substituting the words "State" and "States" for "colony" and "colonies."

the well-being of America in general:—We, the representatives of the colony of New Jersey, having been elected by all the counties, in the freest manner, and in congress assembled, have, after mature deliberations, agreed upon a set of charter rights and the form of a Constitution, in manner following, viz.

I. That the government of this Province shall be vested in a Governor, Legislative Council, and General Assembly.

II. That the Legislative Council, and General Assembly, shall be chosen, for the first time, on the second Tuesday in August next; the members whereof shall be the same in number and qualifications as are herein after mentioned; and shall be and remain vested with all the powers and authority to be held by any future Legislative Council and Assembly of this Colony, until the second Tuesday in October, which shall be in the year of our Lord one thousand seven hundred and seventy-seven.

III. That on the second Tuesday in October yearly, and every year forever (with the privilege of adjourning from day to day as occasion may require) the counties shall severally choose one person, to be a member of the Legislative Council of this Colony, who shall be, and have been, for one whole year next before the election, an inhabitant and freeholder in the county in which he is chosen, and worth at least one thousand pounds proclamation money, of real and personal estate, within the same county: that, at the same time, each county shall also choose three members of Assembly; provided that no person shall be entitled to a seat in the said Assembly unless he be, and have been, for one whole year next before the election, an inhabitant of the county he is to represent, and worth five hundred pounds proclamation money, in real and personal estate, in the same county: that on the second Tuesday next after the day of election, the Council and Assembly shall separately meet; and that the consent of both Houses shall be necessary to every law; provided, that seven shall be a quorum of the Council, for doing business, and that no law shall pass, unless there be a majority of all the Representatives of each body personally present, and agreeing thereto. Provided always, that if a majority of the representatives of this Province, in Council and General Assembly convened, shall, at any time or times hereafter, judge it equitable and proper, to add to or diminish the number or proportion of the members of Assembly for any county or counties in this Colony, then, and in such case, the same may, on the principles of more equal representation, be lawfully done; anything in this Charter to the contrary notwithstanding: so that the whole number of Representatives in Assembly shall not, at any time, be less than thirty-nine.

IV. That all inhabitants of this Colony, of full age, who are worth fifty pounds proclamation money, clear estate in the same, and have resided within the county in which they claim a vote for twelve months immediately preceding the election, shall be entitled to vote for Representatives in Council and Assembly; and also for all other public officers, that shall be elected by the people of the county at large.

V. That the Assembly, when met, shall have power to choose a Speaker, and other their officers; to be judges of the qualifications and elections of their own members; sit upon their own adjournments; prepare bills, to be passed into laws; and to empower their Speaker to

convene them, whenever any extraordinary occurrence shall render it necessary.

VI. That the Council shall also have power to prepare bills to pass into laws, and have other like powers as the Assembly, and in all respects be a free and independent branch of the Legislature of this Colony; save only, that they shall not prepare or alter any money bill—which shall be the privilege of the Assembly; that the Council shall, from time to time, be convened by the Governor or Vice-President, but must be convened, at all times, when the Assembly sits; for which purpose the Speaker of the House of Assembly shall always, immediately after an adjournment, give notice to the Governor, or Vice-President, of the time and place to which the House is adjourned.

VII. That the Council and Assembly jointly, at their first meeting after each annual election, shall, by a majority of votes, elect some fit person within the Colony, to be Governor for one year, who shall be constant President of the Council, and have a casting vote in their proceedings; and that the Council themselves shall choose a Vice-President who shall act as such in the absence of the Governor.

VIII. That the Governor, or, in his absence, the Vice-President of the Council, shall have the supreme executive power, be Chancellor of the Colony, and act as captain-general and commander in chief of all the militia, and other military force in this Colony; and that any three or more of the Council shall, at all times, be a privy-council, to consult them; and that the Governor be ordinary or surrogate-general.

IX. That the Governor and Council, (seven whereof shall be a quorum) be the Court of Appeals, in the last resort, in all clauses of law, as heretofore; and that they possess the power of granting pardons to criminals, after condemnation, in all cases of treason, felony, or other offences.

X. That captains, and all other inferior officers of the militia, shall be chosen by the companies, in the respective counties; but field and general officers, by the Council and Assembly.

XI. That the Council and Assembly shall have power to make the Great Seal of this Colony, which shall be kept by the Governor, or, in his absence, by the Vice-President of the Council, to be used by them as occasion may require: and it shall be called, *The Great Seal of the Colony of New-Jersey.*

XII. That the Judges of the Supreme Court shall continue in office for seven years: the Judges of the Inferior Court of Common Pleas in the several counties, Justices of the Peace, Clerks of the Supreme Court, Clerks of the Inferior Court of Common Pleas and Quarter Sessions, the Attorney-General, and Provincial Secretary, shall continue in office for five years: and the Provincial Treasurer shall continue in office for one year; and that they shall be severally appointed by the Council and Assembly, in manner aforesaid, and commissioned by the Governor, or, in his absence, the Vice-President of the Council. Provided always, that the said officers, severally, shall be capable of being re-appointed, at the end of the terms severally before limited; and that any of the said officers shall be liable to be dismissed, when adjudged guilty of misbehaviour, by the Council, on an impeachment of the Assembly.

XIII. That the inhabitants of each county, qualified to vote as aforesaid, shall at the time and place of electing their Representatives, annually elect one Sheriff, and one or more Coroners; and that they may re-elect the same person to such offices, until he shall have served three years, but no longer; after which, three years must elapse before the same person is capable of being elected again. When the election is certified to the Governor, or Vice-President, under the hands of six freeholders of the county for which they were elected, they shall be immediately commissioned to serve in their respective offices.

XIV. That the townships, at their annual town meetings for electing other officers, shall choose constables for the districts respectively; and also three or more judicious freeholders of good character, to hear and finally determine all appeals, relative to unjust assessments, in cases of public taxation; which commissioners of appeal shall, for that purpose, sit at some suitable time or times, to be by them appointed, and made known to the people by advertisements.

XV. That the laws of the Colony shall begin in the following style, viz. "Be it enacted by the Council and General Assembly of this Colony, and it is hereby enacted by authority of the same:" that all commissions, granted by the Governor or Vice-President, shall run thus—"The Colony of New-Jersey to A. B. &c. greeting:" and that all writs shall likewise run in the name of the Colony: and that all indictments shall conclude in the following manner, viz. "Against the peace of this Colony, the government and dignity of the same."

XVI. That all criminals shall be admitted to the same privileges of witnesses and counsel, as their prosecutors are or shall be entitled to.

XVII. That the estates of such persons as shall destroy their own lives, shall not, for that offence, be forfeited; but shall descend in the same manner, as they would have done, had such persons died in the natural way; nor shall any article, which may occasion accidentally the death of any one, be henceforth deemed a deodand, or in anywise forfeited, on account of such misfortune.

XVIII. That no person shall ever, within this Colony, be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor, under any pretence whatever, be compelled to attend any place of worship, contrary to his own faith and judgment; nor shall any person, within this Colony, ever be obliged to pay tithes, taxes, or any other rates, for the purpose of building or repairing any other church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or has deliberately or voluntarily engaged himself to perform.

XIX. That there shall be no establishment of any one religious sect in this Province, in preference to another; and that no Protestant inhabitant of this Colony shall be denied the enjoyment of any civil right, merely on account of his religious principles; but that all persons, professing a belief in the faith of any Protestant sect, who shall demean themselves peaceably under the government, as hereby established, shall be capable of being elected into any office of profit

or trust, or being a member of either branch of the Legislature, and shall fully and freely enjoy every privilege and immunity, enjoyed by others their fellow subjects.

XX. That the legislative department of this government may, as much as possible, be preserved from all suspicion of corruption, none of the Judges of the Supreme or other Courts, Sheriffs, or any other person or persons possessed of any post of profit under the government, other than Justices of the Peace, shall be entitled to a seat in the Assembly: but that, on his being elected, and taking his seat, his office or post shall be considered as vacant.

XXI. That all the laws of this Province, contained in the edition lately published by Mr. Allinson, shall be and remain in full force, until altered by the Legislature of this Colony (such only excepted, as are incompatible with this Charter) and shall be, according as heretofore, regarded in all respects, by all civil officers, and others, the good people of this Province.

XXII. That the common law of England, as well as so much of the statute law, as have been heretofore practised in this Colony, shall still remain in force, until they shall be altered by a future law of the Legislature; such parts only excepted, as are repugnant to the rights and privileges contained in this Charter: and that the inestimable right of trial by jury shall remain confirmed as a part of the law of this Colony, without repeal, forever.

XXIII. That every person, who shall be elected as aforesaid to be a member of the Legislative Council, or House of Assembly, shall, previous to his taking his seat in Council or Assembly, take the following oath or affirmation, viz:

"I, *A. B.*, do solemnly declare, that, as a member of the Legislative Council, [*or Assembly, as the case may be,*] of the Colony of New-Jersey, I will not assent to any law, vote or proceeding, which shall appear to me injurious to the public welfare of said Colony, nor that shall annul or repeal that part of the third section in the Charter of this Colony, which establishes, that the elections of members of the Legislative Council and Assembly shall be annual; nor that part of the twenty-second section in said Charter, respecting the trial by jury, nor that shall annul, repeal, or alter any part or parts of the eighteenth or nineteenth sections of the same."

And any person or persons, who shall be elected as aforesaid, is hereby empowered to administer to the said members the said oath or affirmation.

Provided always, and it is the true intent and meaning of this Congress, that if a reconciliation between Great-Britain and these Colonies should take place, and the latter be taken again under the protection and government of the crown of Britain, this Charter shall be null and void—otherwise to remain firm and inviolable.

In Provincial Congress, New Jersey,
Burlington, July 2, 1776.
By order of Congress.

Samuel Tucker, *Pres.*

William Patterson, *Secretary.*

CONSTITUTION OF NEW JERSEY—1844 * [a]

We, the people of the State of New Jersey, grateful to Almighty God for the civil and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, do ordain and establish this CONSTITUTION:

ARTICLE I

RIGHTS AND PRIVILEGES

1. All men are by nature free and independent, and have certain natural and inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it.

3. No person shall be deprived of the inestimable privilege of worshiping Almighty God in a manner agreeable to the dictates of his own conscience; nor, under any pretence whatever, to be compelled to attend any place of worship contrary to his faith and judgment; nor shall any person be obliged to pay tithes, taxes or other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or has deliberately and voluntarily engaged to perform.

4. There shall be no establishment of one religious sect in preference to another; no religious test shall be required as a qualification for any office or public trust; and no person shall be denied the enjoyment of any civil right merely on account of his religious principles.

5. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

6. The right of the people to be secure in their persons, houses,

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* Verified from "The Constitution of the State of New Jersey. Trenton, N. J. MacCrellish & Quigley, State Printers. 1906." 32 pp. Official edition.

[a] This constitution agreed upon by the delegates of the people of New Jersey, in convention begun at Trenton on the fourteenth day of May, and continued to the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and forty-four, ratified by the people at an election held on the thirteenth day of August, A. D. 1844, and amended at a special election held on the seventh day of September, A. D. 1875, and at another special election held on the twenty-eighth day of September, A. D. 1897. See Appendix.

papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particulary describing the place to be searched and the papers and things to be seized.

7. The right of a trial by jury shall remain inviolate; but the legislature may authorize the trial of civil suits, when a matter in dispute does not exceed fifty dollars, by a jury of six men.

8. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense.

9. No person shall be held to answer for a criminal offense, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy; or in the militia, when in actual service in time of war or public danger.

10. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or presumption great.

11. The privilege of the writ of *habeas corpus* shall not be suspended, unless in case of rebellion or invasion the public safety may require it.

12. The military shall be in strict subordination to the civil power.

13. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in a manner prescribed by law.

14. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

15. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

16. Private property shall not be taken for public use without just compensation; but land may be taken for public highways as heretofore, until the legislature shall direct compensation to be made.

17. No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, unless in cases of fraud; nor shall any person be imprisoned for a militia fine in time of peace.

18. The people have the right freely to assemble together to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

19. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual association or corporation, or become security for or be directly or indirectly the owner of any stocks or bonds of any association or corporation.

20. No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever.

21. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

Article II

RIGHT OF SUFFRAGE

1. Every male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State one year, and of the county in which he claims his vote five months, next before the election, shall be entitled to vote for all officers that now are, or hereafter may be, elective by the people; *provided*, that no person in the military, naval or marine service of the United States shall be considered a resident in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no pauper, idiot, insane person, or person convicted of a crime which now excludes him from being a witness unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector; *and provided further*, that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

2. The legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery.

Article III

DISTRIBUTION OF THE POWERS OF GOVERNMENT

1. The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided.

Article IV

LEGISLATIVE

SECTION I

1. The legislative power shall be vested in a senate and general assembly.

2. No person shall be a member of the senate who shall not have attained the age of thirty years, and have been a citizen and inhabitant of the State for four years, and of the county for which he shall be chosen one year, next before his election; and no person shall be a member of the general assembly who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State for two years, and of the county for which he shall be chosen one year next before his election; *provided*, that no person shall be eligible as a member of either house of the legislature, who shall not be entitled to the right of suffrage.

3. Members of the senate and general assembly shall be elected yearly and every year, on the first Tuesday after the first Monday in

November; and the two houses shall meet separately on the second Tuesday in January next after the said day of election, at which time of meeting the legislative year shall commence; but the time of holding such election may be altered by the legislature.

SECTION II

1. The senate shall be composed of one senator from each county in the State, elected by the legal voters of the counties, respectively, for three years.

2. As soon as the senate shall meet after the first election to be held in pursuance of this constitution, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year, so that one class may be elected every year; and if vacancies happen, by resignation or otherwise, the persons elected to supply such vacancies shall be elected for the unexpired terms only.

SECTION III

1. The general assembly shall be composed of members annually elected by the legal voters of the counties, respectively, who shall be apportioned among the said counties as nearly as may be according to the number of their inhabitants. The present apportionment shall continue until the next census of the United States shall have been taken, and an apportionment of members of the general assembly shall be made by the legislature at its first session after the next and every subsequent enumeration or census, and when made shall remain unaltered until another enumeration shall have been taken; *provided*, that each county shall at all times be entitled to one member; and the whole number of members shall never exceed sixty.

SECTION IV

1. Each house shall direct writs of election for supplying vacancies, occasioned by death, resignation, or otherwise; but if vacancies occur during the recess of the legislature, the writs may be issued by the governor, under such regulations as may be prescribed by law.

2. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

3. Each house shall choose its own officers, determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, may expel a member.

4. Each house shall keep a journal of its proceedings, and from time to time publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

5. Neither house, during the session of the legislature, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

6. All bills and joint resolutions shall be read three times in each house, before the final passage thereof; and no bill or joint resolution shall pass unless there be a majority of all the members of each body personally present and agreeing thereto; and the yeas and nays of the members voting on such final passage shall be entered on the journal.

7. Members of the senate and general assembly shall receive annually the sum of five hundred dollars during the time for which they shall have been elected and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever. The president of the senate and the speaker of the house of assembly shall, in virtue of their offices, receive an additional compensation, equal to one-third of their allowance as members.

8. Members of the senate and general assembly shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sitting of their respective houses, and in going to and returning from the same; and for any speech or debate, in either house, they shall not be questioned in any other place.

SECTION V

1. No member of the senate or general assembly shall, during the time for which he was elected, be nominated or appointed by the governor, or by the legislature in joint meeting, to any civil office under the authority of this State which shall have been created, or the emoluments whereof shall have been increased, during such time.

2. If any member of the senate or general assembly shall be elected to represent this State in the senate or house of representatives of the United States, and shall accept thereof, or shall accept of any office or appointment under the government of the United States, his seat in the legislature of this State shall thereby be vacated.

3. No justice of the supreme court, nor judge of any other court, sheriff, justice of the peace nor any person or persons possessed of any office of profit under the government of this State, shall be entitled to a seat either in the senate or in the general assembly; but, on being elected and taking his seat, his office shall be considered vacant; and no person holding any office of profit under the government of the United States shall be entitled to a seat in either house.

SECTION VI

1. All bills for raising revenue shall originate in the house of assembly; but the senate may propose or concur with amendments, as on other bills.

2. No money shall be drawn from the treasury but for appropriations made by law.

3. The credit of the State shall not be directly or indirectly loaned in any case.

4. The legislature shall not, in any manner, create any debt or debts, liability or liabilities, of the State which shall, singly or in the aggregate with any previous debts or liabilities, at any time exceed one hundred thousand dollars, except for purposes of war, or to repel invasion, or to suppress insurrection, unless the same shall be authorized by a law for some single object or work, to be distinctly specified therein; which law shall provide the ways and means, exclusive of

loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within thirty-five years from the time of the contracting thereof, and shall be irrepealable until such debt or liability, and the interest thereon, are fully paid and discharged; and no such law shall take effect until it shall, at a general election, have been submitted to the people, and have received the sanction of a majority of all the votes cast for and against it at such election; and all money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This section shall not be construed to refer to any money that has been, or may be, deposited with this State by the government of the United States.

SECTION VII

1. No divorce shall be granted by the legislature.

2. No lottery shall be authorized by the legislature or otherwise in this State, and no ticket in any lottery shall be bought or sold within this State, nor shall pool-selling, book-making or gambling of any kind be authorized or allowed within this State, nor shall any gambling device, practice or game of chance now prohibited by law be legalized, or the remedy, penalty or punishment now provided therefor be in any way diminished.

3. The legislature shall not pass any bill of attainder, *ex post facto law*, or law impairing the obligation of contracts, or depriving a party of any remedy for enforcing a contract which existed when the contract was made.

4. To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title. No law shall be revived or amended by reference to its title only; but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.

5. The laws of this State shall begin in the following style: "Be it enacted by the Senate and General Assembly of the State of New Jersey."

6. The fund for the support of free schools, and all money, stock and other property which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public free schools, for the equal benefit of all the people of the State; and it shall not be competent for the legislature to borrow, appropriate or use the said fund, or any part thereof, for any other purpose, under any pretense whatever. The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years.

7. No private or special law shall be passed authorizing the sale of any lands belonging in whole or in part to a minor or minors, or other persons who may at the time be under any legal disability to act for themselves.

8. Individuals or private corporations shall not be authorized to take private property for public use, without just compensation first made to the owners.

9. No private, special or local bill shall be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The legislature, at the next session after the adoption hereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved.

10. The legislature may vest in the circuit courts, or courts of common pleas within the several counties of this State, chancery powers, so far as relates to the foreclosure of mortgages and sale of mortgaged premises.

11. The legislature shall not pass private, local or special laws in any of the following enumerated cases; that is to say:

Laying out, opening, altering and working roads or highways.

Vacating any road, town plot, street, alley or public grounds.

Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

Selecting, drawing, summoning or empaneling grand or petit jurors.

Creating, increasing or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed.

Changing the law of descent.

Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Providing for changes of venue in civil or criminal cases.

Providing for the management and support of free public schools.

The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature.

12. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.

SECTION VIII

1. Members of the legislature shall, before they enter on the duties of the their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear [or affirm, as the case may be], that I will support the constitution of the United States and the constitution of the State of New Jersey, and that I will faithfully discharge the duties of senator [or member of the general assembly, as the case may be], according to the best of my ability."

And members-elect of the senate or general assembly are hereby empowered to administer to each other the said oath or affirmation.

2. Every officer of the legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: "I do solemnly promise and swear [or affirm] that I will faithfully, impartially and justly perform all the duties of the office of ———, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property intrusted to me for safe-keeping by virtue of my office, and make such disposition of the same as may be required by law."

Article V

EXECUTIVE

1. The executive power shall be vested in a governor.

2. The governor shall be elected by the legal voters of this State. The person having the highest number of votes shall be the governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the vote of a majority of the members of both houses in joint meeting. Contested elections for the office of governor shall be determined in such manner as the legislature shall direct by law. When a governor is to be elected by the people, such election shall be held at the time when and at the places where the people shall respectively vote for members of the legislature.

3. The governor shall hold his office for three years, to commence on the third Tuesday of January next ensuing the election for governor by the people, and to end on the Monday preceding the third Tuesday of January, three years thereafter; and he shall be incapable of holding that office for three years next after his term of service shall have expired; and no appointment or nomination to office shall be made by the governor during the last week of his said term.

4. The governor shall be not less than thirty years of age, and shall have been for twenty years, at least, a citizen of the United States, and a resident of this State seven years next before his election, unless he shall have been absent during that time on the public business of the United States or of this State.

5. The governor shall, at stated times, receive for his services a compensation which shall be neither increased nor diminished during the period for which he shall have been elected.

6. He shall be the commander-in-chief of all the military and naval forces of the State; he shall have power to convene the legislature, or the senate alone, whenever in his opinion public necessity requires it; he shall communicate by message to the legislature at the opening of each session, and at such other times as he may deem necessary, the condition of the State, and recommend such measures as he may deem expedient; he shall take care that the laws be faithfully executed, and grant, under the great seal of the State, commissions to all such officers as shall be required to be commissioned

7. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it; if, after such reconsideration, a majority

of the whole number of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved of by a majority of the whole number of that house, it shall become a law; but in neither house shall the vote be taken on the same day on which the bill shall be returned to it; and in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor, within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature by their adjournment prevent its return, in which case it shall not be a law. If any bill presented to the governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the legislature be in session he shall transmit to the house in which the bill originated, a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

8. No member of congress, or person holding an office under the United States, or this State, shall exercise the office of governor; and in case the governor, or person administering the government, shall accept any office under the United States or this State, his office of governor shall thereupon be vacant. Nor shall he be elected by the legislature to any office under the government of this State or of the United States, during the term for which he shall have been elected governor.

9. The governor, or person administering the government, shall have power to suspend the collection of fines and forfeitures, and to grant reprieves, to extend until the expiration of a time not exceeding ninety days after conviction; but this power shall not extend to cases of impeachment.

10. The governor, or person administering the government, the chancellor, and the six judges of the court of errors and appeals, or a major part of them, of whom the governor, or person administering the government, shall be one, may remit fines and forfeitures, and grant pardons, after conviction, in all cases except impeachment.

11. The governor and all other civil officers under this State shall be liable to impeachment for misdemeanor in office during their continuance in office, and for two years thereafter.

12. In case of the death, resignation or removal from office of the governor, the powers, duties and emoluments of the office shall devolve upon the president of the senate, and in case of his death, resignation or removal, then upon the speaker of the house of assembly, for the time being, until another governor shall be elected and qualified; but in such case another governor shall be chosen at the next election

for members of the legislature, unless such death, resignation or removal shall occur within thirty days immediately preceding such next election, in which case a governor shall be chosen at the second succeeding election for members of the legislature. When a vacancy happens, during the recess of the legislature, in any office which is to be filled by the governor and senate, or by the legislature in joint meeting, the governor shall fill such vacancy and the commission shall expire at the end of the next session of the legislature, unless a successor shall be sooner appointed; when a vacancy happens in the office of clerk or surrogate of any county, the governor shall fill such vacancy, and the commission shall expire when a successor is elected and qualified. No person who shall have been nominated to the senate by the governor for any office of trust or profit under the government of this State, and shall not have been confirmed before the recess of the legislature, shall be eligible for appointment to such office during the continuance of such recess.

13. In case of the impeachment of the governor, his absence from the State or inability to discharge the duties of his office, the powers, duties and emoluments of the office shall devolve upon the president of the senate; and in case of his death, resignation or removal, then upon the speaker of the house of assembly for the time being until the governor, absent or impeached, shall return or be acquitted, or until the disqualification or inability shall cease, or until a new governor be elected and qualified.

14. In case of a vacancy in the office of governor from any other cause than those herein enumerated, or in case of the death of the governor-elect before he is qualified into office, the powers, duties and emoluments of the office shall devolve upon the president of the senate or speaker of the house of assembly, as above provided for, until a new governor be elected and qualified.

Article VI

JUDICIARY

SECTION I

1. The judicial power shall be vested in a court of errors and appeals in the last resort in all causes as heretofore; a court for the trial of impeachments; a court of chancery; a prerogative court; a supreme court; circuit courts, and such inferior courts as now exist, and as may be hereafter ordained and established by law; which inferior courts the legislature may alter or abolish, as the public good shall require.

SECTION II

1. The court of errors and appeals shall consist of the chancellor, the justices of the supreme court, and six judges, or a major part of them; which judges are to be appointed for six years.

2. Imemdiately after the court shall first assemble, the six judges shall arrange themselves in such manner that the seat of one of them shall be vacated every year, in order that thereafter one judge may be annually appointed.

3. Such of the six judges as shall attend the court shall receive, respectively, a *per diem* compensation, to be provided by law.

4. The secretary of state shall be the clerk of this court.

5. When an appeal from an order or decree shall be heard, the chancellor shall inform the court, in writing, of the reasons for his order or decree; but he shall not sit as a member, or have a voice in the hearing or final sentence.

6. When a writ of error shall be brought, no justice who has given a judicial opinion in the cause in favor of or against any error complained of, shall sit as a member, or have a voice on the hearing, or for its affirmance or reversal; but the reasons for such opinion shall be assigned to the court in writing.

SECTION III

1. The house of assembly shall have the sole power of impeaching, by a vote of a majority of all the members; and all impeachments shall be tried by the senate; the members, when sitting for that purpose, to be on oath or affirmation "truly and impartially to try and determine the charge in question according to evidence;" and no person shall be convicted without the concurrence of two-thirds of all the members of the senate.

2. Any judicial officer impeached shall be suspended from exercising his office until his acquittal.

3. Judgment in cases of impeachment shall not extend farther than to removal from office, and to disqualification to hold and enjoy any office of honor, profit or trust under this State; but the party convicted shall, nevertheless, be liable to indictment, trial and punishment according to law.

4. The secretary of state shall be the clerk of this court.

SECTION IV

1. The court of chancery shall consist of a chancellor.

2. The chancellor shall be the ordinary or surrogate general, and judges of the prerogative court.

3. All persons aggrieved by any order, sentence or decree of the orphans' court, may appeal from the same, or from any part thereof, to the prerogative court; but such order, sentence or decree shall not be removed into the supreme court, or circuit court if the subject-matter thereof be within the jurisdiction of the orphans' court.

4. The secretary of state shall be the register of the prerogative court, and shall perform the duties required of him by law in that respect.

SECTION V

1. The supreme court shall consist of a chief justice and four associate justices. The number of associate justices may be increased or decreased by law, but shall never be less than two.

2. The circuit courts shall be held in every county of this State, by one or more of the justices of the supreme court, or a judge appointed for that purpose, and shall, in all cases within the county except in those of criminal nature, have common law jurisdiction, concurrent with the supreme court; and any final judgment of a

circuit court may be docketed in the supreme court, and shall operate as a judgment obtained in the supreme court from the time of such docketing.

3. Final judgments in any circuit court may be brought by writ of error into the supreme court, or directly into the court of errors and appeals.

SECTION VI

1. There shall be no more than five judges of the inferior court of common pleas in each of the counties in this State, after the terms of the judges of said court now in office shall terminate. One judge for each county shall be appointed every year, and no more, except to fill vacancies, which shall be for the unexpired term only.

2. The commissions for the first appointments of judges of said court shall bear date and take effect on the first day of April next: and all subsequent commissions for judges of said court shall bear date and take effect on the first day of April in every successive year, except commissions to fill vacancies, which shall bear date and take effect when issued.

SECTION VII

1. There may be elected under this constitution two, and not more than five, justices of the peace in each of the townships of the several counties of this State, and in each of the wards, in cities that may vote in wards. When a township or ward contains two thousand inhabitants or less, it may have two justices; when it contains more than two thousand inhabitants, and not more than four thousand, it may have four justices; and when it contains more than four thousand inhabitants, it may have five justices; *provided*, that whenever any township not voting in wards contains more than seven thousand inhabitants, such township may have an additional justice for each additional three thousand inhabitants above four thousand.

2. The population of the townships in the several counties of the State and of the several wards shall be ascertained by the last preceding census of the United States, until the legislature shall provide, by law, some other mode of ascertaining it.

Article VII

APPOINTING POWER AND TENURE OF OFFICE

SECTION I.—MILITIA OFFICERS

1. The legislature shall provide by law for enrolling, organizing and arming the militia.

2. Captains, subalterns and non-commissioned officers shall be elected by the members of their respective companies.

3. Field officers of regiments, independent battalions and squadrons shall be elected by the commissioned officers of their respective regiments, battalions, or squadrons.

4. Brigadier-generals shall be elected by the field officers of their respective brigades.

5. Major-generals, the adjutant-general and quartermaster-general shall be nominated by the governor, and appointed by him, with the advice and consent of the senate.

6. The legislature shall provide, by law, the time and manner of electing militia officers, and of certifying their elections to the governor, who shall grant their commissions, and determine their rank, when not determined by law; and no commissioned officer shall be removed from office but by the sentence of a court-martial, pursuant to law.

7. In case the electors of subalterns, captains or field officers shall refuse or neglect to make such elections, the governor shall have power to appoint such officers, and to fill all vacancies caused by such refusal or neglect.

8. Brigade inspectors shall be chosen by the field officers of their respective brigades.

9. The governor shall appoint all militia officers whose appointment is not otherwise provided for in this constitution.

10. Major-generals, brigadier-generals and commanding officers of regiments, independent battalions and squadrons shall appoint the staff officers of their divisions, brigades, regiments, independent battalions and squadrons, respectively.

SECTION II.—CIVIL OFFICERS

1. Justices of the supreme court, chancellor, judges of the court of errors and appeals and judges of the inferior court of common pleas shall be nominated by the governor, and appointed by him, with the advice and consent of the senate.

The justices of the supreme court and chancellor shall hold their offices for the term of seven years; shall, at stated times, receive for their services a compensation which shall not be diminished during the term of their appointments; and they shall hold no other office under the government of this State or of the United States.

2. Judges of the courts of common pleas shall be appointed by the senate and general assembly, in joint meeting.

They shall hold their offices for five years; but when appointed to fill vacancies, they shall hold for the unexpired term only.

3. The state treasurer and comptroller shall be appointed by the senate and general assembly, in joint meeting.

They shall hold their offices for three years, and until their successors shall be qualified into office.

4. The attorney-general, prosecutors of the pleas, clerk of the supreme court, clerk of the court of chancery, secretary of state and the keeper of the state prison shall be nominated by the governor, and appointed by him, with the advice and consent of the senate.

They shall hold their offices for five years.

5. The law reporter shall be appointed by the justices of the supreme court, or a majority of them; and the chancery reporter shall be appointed by the chancellor.

They shall hold their offices for five years.

6. Clerks and surrogates of counties shall be elected by the people of their respective counties, at the annual elections for members of the general assembly.

They shall hold their offices for five years.

7. Sheriffs and coroners shall be elected by the people of their respective counties, at the elections for members of the general assembly, and they shall hold their offices for three years, after which

three years must elapse before they can be again capable of serving. Sheriffs shall annually renew their bonds.

8. Justices of the peace shall be elected by ballot at the annual meetings of the townships in the several counties of the State, and of the wards in cities that may vote in wards, in such manner and under such regulations as may be hereafter provided by law.

They shall be commissioned for the county, and their commissions shall bear date and take effect on the first day of May next after their election.

They shall hold their offices for five years; but when elected to fill vacancies, they shall hold for the unexpired term only; *provided*, that the commission of any justice of the peace shall become vacant upon his ceasing to reside in the township in which he was elected.

The first election for justices of the peace shall take place at the next annual town-meetings of the townships in the several counties of the State and of the wards in cities that may vote in wards.

9. All other officers, whose appointments are not otherwise provided for by law, shall be nominated by the governor, and appointed by him, with the advice and consent of the senate; and shall hold their offices for the time prescribed by law.

10. All civil officers elected or appointed pursuant to the provisions of this constitution, shall be commissioned by the governor.

11. The term of office of all officers elected or appointed, pursuant to the provisions of this constitution, except when herein otherwise directed, shall commence on the day of the date of their respective commissions; but no commission for any office shall bear date prior to the expiration of the term of the incumbent of said office.

Article VIII

General provisions

1. The secretary of state shall be *ex officio* an auditor of the accounts of the treasurer, and as such, it shall be his duty to assist the legislature in the annual examination and settlement of said accounts, until otherwise provided by law.

2. The seal of the State shall be kept by the governor, or person administering the government, and used by him officially, and shall be called the great seal of the State of New Jersey.

3. All grants and commissions shall be in the name and by the authority of the State of New Jersey, sealed with the great seal, signed by the governor, or person administering the government, and countersigned by the secretary of state, and it shall run thus: "The State of New Jersey, to ——— ———, greeting." All writs shall be in the name of the State; and all indictments shall conclude in the following manner, viz., "against the peace of this State, the government and dignity of the same."

4. This constitution shall take effect and go into operation on the second day of September, in the year of our Lord one thousand eight hundred and forty-four.

Article IX

AMENDMENTS

Any specific amendment or amendments to the constitution may be proposed in the senate or general assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months previous to making such choice, in at least one newspaper of each county, if any be published therein; and if in the legislature next chosen as aforesaid, such proposed amendment or amendments, or any of them, shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments, or such of them as may have been agreed to as aforesaid by the two legislatures, to the people, in such manner and at such time, at least four months after the adjournment of the legislature, as the legislature shall prescribe; and if the people at a special election to be held for that purpose only, shall approve and ratify such amendment or amendments, or any of them, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments so approved and ratified shall become part of the constitution; *provided*, that if more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly; but no amendment or amendments shall be submitted to the people by the legislature oftener than once in five years.

Article X

SCHEDULE

That no inconvenience may arise from the change in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained, that—

1. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature; and all writs, actions, causes of action, prosecutions, contracts, claims and rights of individuals and of bodies corporate, and of the State, and all charters of incorporation, shall continue, and all indictments which shall have been found, or which may hereafter be found, for any crime or offense committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts of law and equity, except as herein otherwise provided, shall continue with the like powers and jurisdiction as if this constitution had not been adopted.

2. All officers now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

3. The present governor, chancellor and ordinary or surrogate-general and treasurer shall continue in office until successors elected or appointed under this constitution shall be sworn or affirmed into office.

4. In case of the death, resignation or disability of the present governor, the person who may be vice-president of council at the time of the adoption of this constitution shall continue in office and administer the government until a governor shall have been elected and sworn or affirmed into office under this constitution.

5. The present governor, or in case of his death or inability to act, the vice-president of council, together with the present members of the legislative council and secretary of state, shall constitute a board of state canvassers, in the manner now provided by law, for the purpose of ascertaining and declaring the result of the next ensuing election for governor, members of the house of representatives, and electors of president and vice-president.

6. The returns of the votes for governor, at the said next ensuing election, shall be transmitted to the secretary of state, the votes counted, and the election declared in the manner now provided by law in the case of the election of electors of president and vice-president.

7. The election of clerks and surrogates, in those counties where the term of office of the present incumbent shall expire previous to the general election of eighteen hundred and forty-five, shall be held at the general election next ensuing the adoption of this constitution; the result of which election shall be ascertained in the manner now provided by law for the election of sheriffs.

8. The elections for the year eighteen hundred and forty-four shall take place as now provided by law.

9. It shall be the duty of the governor to fill all vacancies in office happening between the adoption of this constitution and the first session of the senate, and not otherwise provided for, and the commissions shall expire at the end of the first session of the senate, or when successors shall be elected or appointed and qualified.

10. The restriction of the pay of members of the legislature, after forty days from the commencement of the session, shall not be applied to the first legislature convened under this constitution.

11. Clerks of counties shall be clerks of the inferior courts of common pleas and quarter sessions of the several counties, and perform the duties, and be subject to the regulations now required of them by law until otherwise ordained by the legislature.

12. The legislature shall pass all laws necessary to carry into effect the provisions of this constitution.

STATE OF NEW JERSEY:

I, George Wurts, Secretary of State of the State of New Jersey, do hereby certify the foregoing to be a true copy of the Constitution of the State of New Jersey as amended, as the same is taken from and compared with the original Constitution and amendments thereto, now remaining on file in my office.

In testimony whereof, I have hereunto set my hand and affixed my official seal, this twenty-sixth day of October, A. D. eighteen hundred and ninety-seven.

[L. S.] GEORGE WURTS.

NEW MEXICO

For organic acts relating to the land now included within New Mexico see in this work:

Mexican Constitution, 1824 (Texas, p. 3475).
Constitution of Coahuila and Texas, 1827 (Texas, p. 3495).
Constitution of Texas, 1835 (Texas, p. 3520).
Texas Declaration of Independence, 1836 (Texas, p. 3528).
Ordinance of Texas, 1836 (Texas, p. 3530).
Convention with Texas, 1838 (Texas, p. 3543).
Annexation of Texas, 1845 (Texas, p. 3544).
Admission of Texas, 1845 (Texas, p. 3546).
Mexican Treaty of Cession, 1853 (Arizona, p. 255).

TERRITORIAL GOVERNMENT OF NEW MEXICO—1850 [a]

[THIRTY-FIRST CONGRESS, FIRST SESSION]

An Act proposing to the State of Texas the Establishment of her Northern and Western Boundaries, the Relinquishment by the said State of all Territory claimed by her exterior to said Boundaries, and of all her Claims upon the United States, and to establish a territorial Government for New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following propositions shall be, and the same hereby are, offered to the State of Texas, which, when agreed to by the said State, in an act passed by the general assembly, shall be binding and obligatory upon the United States, and upon the said State of Texas: *Provided*, The said agreement by the said general assembly shall be given on or before the first day of December, eighteen hundred and fifty:

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[a] For other statutes of an organic nature relating to New Mexico, see to provide for extra sessions of legislature, March 3, 1853; to extend southern boundary, August 4, 1854; to prohibit slavery in, June 19, 1862; to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation, March 2, 1867; to abolish and forever prohibit the system of peonage in, March 2, 1867; to make valid certain laws of, March 26, 1867; to give qualified veto power to governor and to extend the duties of the secretary of the Territory, July 27, 1868; to repeal law taxing cattle, April 10, 1869; to amend a Territorial law, July 14, 1870; to convene legislative assembly, April 20, 1871; to limit the duration of legislative sessions and to fix pay of members, January 23, 1873; to repeal law of Territory incorporating the Jesuit Fathers, February 3, 1879; to fix number of members and compensation of each house of legislature, June 19, 1878, June 27, 1879; to legalize an election and to reapportion members of legislature, December 21, 1881; to limit sessions of legislature, February 14, 1884; to limit legislature's power to pass special acts of incorporation, March 3, 1885; to prohibit various forms of special legislation, July 30, 1886; to reorganize courts, February 28, 1887; to permit erection of counties, July 19, 1888; to grant control of liquor traffic, August 8, 1890; to permit appeals to circuit court of appeals, March 3, 1891; to make valid certain bond issues, January 16, 1897.

First. The State of Texas will agree that her boundary on the north shall commence at the point at which the meridian of one hundred degrees west from Greenwich is intersected by the parallel of thirty-six degrees thirty minutes north latitude, and shall run from said point due west to the meridian of one hundred and three degrees west from Greenwich; thence her boundary shall run due south to the thirty-second degree of north latitude; thence on the said parallel of thirty-two degrees of north latitude to the Rio Bravo del Norte, and thence with the channel of said river to the Gulf of Mexico.

Second. The state of Texas cedes to the United States all her claim to territory exterior to the limits and boundaries which she agrees to establish by the first article of this agreement.

Third. The State of Texas relinquishes all claim upon the United States for liability of the debts of Texas, and for compensation or indemnity for the surrender to the United States of her ships, forts, arsenals, custom-houses, custom-house revenue, arms and munitions of war, and public buildings with their sites, which became the property of the United States at the time of the annexation.

Fourth. The United States, in consideration of said establishment of boundaries, cession of claim to territory, and relinquishment of claims, will pay to the State of Texas the sum of ten millions of dollars in a stock bearing five per cent. interest, and redeemable at the end of fourteen years, the interest payable half-yearly at the treasury of the United States.

Fifth. Immediately after the President of the United States shall have been furnished with an authentic copy of the act of the general assembly of Texas accepting these propositions, he shall cause the stock to be issued in favor of the State of Texas, as provided for in the fourth article of this agreement: *Provided, also*, That no more than five millions of said stock shall be issued until the creditors of the State holding bonds and other certificates of stock of Texas for which duties on imports were specially pledged, shall first file at the treasury of the United States releases of all claim against the United States for or on account of said bonds or certificates in such form as shall be prescribed by the Secretary of the Treasury and approved by the President of the United States: *Provided*, That nothing herein contained shall be construed to impair or qualify anything contained in the third article of the second section of the "joint resolution for annexing Texas to the United States," approved March first, eighteen hundred and forty-five, either as regards the number of States that may hereafter be formed out of the State of Texas, or otherwise.

SEC. 2. *And be it further enacted*, That all that portion of the Territory of the United States bounded as follows: Beginning at a point in the Colorado River where the boundary line with the republic of Mexico crosses the same; thence eastwardly with the said boundary line to the Rio Grande; thence following the main channel of said river to the parallel of the thirty-second degree of north latitude; thence east with said degree to its intersection with the one hundred and third degree of longitude west of Greenwich; thence north with said degree of longitude to the parallel of thirty-eighth degree of north latitude; thence west with said parallel to the summit of the Sierra Madre; thence south with the crest of said mountains

to the thirty-seventh parallel of north latitude; thence west with said parallel to its intersection with the boundary line of the State of California; thence with said boundary line to the place of beginning—be, and the same is hereby, erected into a temporary government, by the name of the Territory of New Mexico; *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State: *And provided, further*, That, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission.

SEC. 3. *And be it further enacted*, That the executive power and authority in and over said Territory of New Mexico shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offenses against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 4. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives and the President of the Senate, for the use of Congress. And, in case of the death, removal, resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 5. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a Council and House of Representatives. The Council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the

several counties or districts, for the election of the Council and House of Representatives, giving to each section of the Territory representation in the ratio of its population, (Indians excepted,) as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of the members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected having the highest number of votes in each of said Council districts, for members of the Council, shall be declared by the governor to be duly elected to the Council; and the person or persons authorized to be elected having the greatest number of votes for the House of Representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be duly elected members of the House of Representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days.

Sec. 6. *And be it further enacted*, That every free white male inhabitant, above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage, and of holding office, shall be exercised only by citizens of the United States, including those recognized as citizens by the treaty with the republic of Mexico, concluded February second, eighteen hundred and forty-eight.

Sec. 7. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of nonresidents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly and governor shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect.

Sec. 8. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed

or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of New Mexico. The governor shall nominate, and, by and with the advice and consent of the legislative Council, appoint, all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the Council and House of Representatives, and all other officers.

SEC. 10. *And be it further enacted*, That the judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in justices of the peace. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a District Court shall be held in each of said districts by one of the justices of the Supreme Court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be asigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the Probate Courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said Supreme and Districts Courts, respectively, shall possess chancery as well as common law jurisdiction. Each District Court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said District Courts to the Supreme Court, under such regulations as may be prescribed by law, but in no case removed to the Supreme Court shall trial by jury be allowed in said court. The Supreme Court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said Supreme Court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the Circuit Courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by the said Supreme Court without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States from the decision of the said Supreme Court created by this act, or of any judge thereof, or of the District Courts created by this act, or of any judge thereof, upon any writ of habeas corpus involving the question of personal freedom; and each of the said District Courts shall have and exercise the same jurisdiction in all cases arising under the Con-

stitution and laws of the United States as is vested in the Circuit and District Courts of the United States; and the said Supreme and District Courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeals in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the District Courts of Oregon Territory now receive for similar services.

SEC. 11. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as Circuit and District Courts of the United States; he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees as the marshal of the District Court of the United States for the present Territory of Oregon, and shall, in addition, be paid two hundred (dollars) annually as a compensation for extra services.

SEC. 12. *And be it further enacted*, That the governor, secretary, chief justice and associate justices, attorney and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the secretary, to be by him recorded as aforesaid; and afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the treasury of the United States. The members of the legislative assembly shall be entitled

to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor, to defray the contingent expenses of the Territory; there shall also be appropriated annually a sufficient sum to be expended by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of New Mexico shall hold its first session at such time and place in said Territory as the Governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

SEC. 14. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly: *Provided*, That such delegate shall receive no higher sum for mileage than is allowed by law to the delegate from Oregon.

SEC. 15. *And be it further enacted*, That when the lands in said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 16. *And be it further enacted*, That temporarily and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 17. *And be it further enacted*, That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of New Mexico as elsewhere within the United States.

SEC. 18. *And be it further enacted*, That the provisions of this act be, and they are hereby, suspended until the boundary between the United States and the State of Texas shall be adjusted; and when such adjustment shall have been effected, the President of the United States shall issue his proclamation, declaring this act to be in full force and operation, and shall proceed to appoint the officers herein provided to be appointed in and for said Territory.

SEC. 19. *And be it further enacted*, That no citizen of the United States shall be deprived of his life, liberty, or property, in said Territory, except by the judgment of his peers and the laws of the land.

Approved, September 9, 1850.

ENABLING ACT FOR NEW MEXICO AND ARIZONA—1906

(See Oklahoma, p. 2960)

NEW YORK

For organic acts relating to the lands now included within New York see in this work:

Virginia Charter of 1606 (Virginia, p. 3783).
Council for New England, 1620 (Massachusetts, p. 1827).
Dutch West India Company, 1621 (p. 59).
Charter of Massachusetts Bay, 1629 (Massachusetts, p. 1846).
Charter of Connecticut, 1662 (Connecticut, p. 529).
Grant to the Duke of York, 1664 (Maine, p. 1637).
Grant to the Duke of York, 1674 (Maine, p. 1641).
Charter of Pennsylvania, 1681 (Pennsylvania, p. 3035).
Commission to Andros, 1688 (Massachusetts, p. 1863).

CONSTITUTION OF NEW YORK—1777 *

IN CONVENTION OF THE REPRESENTATIVES
OF THE STATE OF NEW YORK,
Kingston, 20th April, 1777.

Whereas the many tyrannical and oppressive usurpations of the King and Parliament of Great Britain on the rights and liberties of the people of the American colonies had reduced them to the necessity of introducing a government by congresses and committees, as temporary expedients, and to exist no longer than the grievances of the people should remain without redress: And whereas the congress of the colony of New York did, on the thirty-first day of May now last past, resolve as follows, viz:

"Whereas the present government of this colony, by congress and committees, was instituted while the former government, under the

* Verified from "Journals of the Provincial Congress, Provincial Convention Committee of Safety and Council of Safety of the State of New York, 1775, 1776–1777, vol. I. Albany: Printed by Thurlow Weed, printer to the State 1842." pp. 892–898.

The Dutch, who began in 1613 to establish trading-posts on the Hudson River, claimed jurisdiction over the territory between the Connecticut and the Delaware Rivers, which they called New Netherlands. The government was vested in "The United New Netherland Company," chartered in 1616, and then in "The Dutch West India Company," chartered in 1621.

In 1649 a convention of the settlers petitioned the "Lords States-General of the United Netherlands" to grant them "suitable burgher government," such as their High Mightinesses shall consider adapted to this province, and resembling somewhat the government of our Fatherland," with certain permanent privileges and exemptions, that they might pursue "the trade of our country, as well along the coast from Terra Nova to Cape Florida as to the West Indies and Europe, whenever our Lord God shall be pleased to permit."

The directors of the West India Company resented this attempt to shake off their rule, and wrote their director and council at New Amsterdam: "We have already connived as much as possible at the many impertinences of some restless spirits, in the hope that they might be shamed by our discreetness and benevolence, but, perceiving that all kindnesses do not avail, we must, therefore,

Crown of Great Britain, existed in full force, and was established for the sole purpose of opposing the usurpation of the British Parliament, and was intended to expire on a reconciliation with Great Britain, which it was then apprehended would soon take place, but is now considered as remote and uncertain;

"And whereas many and great inconveniences attend the said mode of government by congress and committees, as of necessity, in many instances, legislative, judicial, and executive powers have been vested therein, especially since the dissolution of the former government by the abdication of the late governor and the exclusion of this colony from the protection of the King of Great Britain;

"And whereas the Continental Congress did resolve as followeth, to wit:

"'Whereas His Britannic Majesty, in conjunction with the lords and commons of Great Britain, has, by a late act of Parliament, excluded the inhabitants of these united colonies from the protection of his Crown; and whereas no answers whatever to the humble petition of the colonies for redress of grievances and reconciliation with Great Britain has been, or is likely to be, given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies; and whereas it appears absolutely irreconcilable to reason and good conscience for the people of these colonies now to take the oaths and affirmations necessary for the support of any government under the Crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said Crown should be totally suppressed, and all the powers of government exerted under the authority of the people of the colonies for the preservation of internal peace, virtue, and good order, as well as for the defense of our lives, liberties, and properties, against the hostile invasions and cruel depredations of our enemies: Therefore,

"'*Resolved*, That it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient to the exigencies of their affairs has been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.'

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have recourse to God, to Nature, and the Law. We accordingly hereby charge and command your Honors, whenever you shall certainly discover any Clandestine Meetings, Conventicles, or machinations against our States' government or that of our country, that you proceed against such malignants in proportion to their crimes."

These grants embraced all the lands between the west bank of the Connecticut River and the east bank of Delaware Bay. The Duke of York had previously purchased, in 1663, the grant of Long Island and other islands on the New England coast, made in 1635 to the Earl of Stirling, and in 1664 he equipped an armed expedition, which took possession of New Amsterdam, which was thenceforth called New York. This conquest was confirmed by the treaty of Breda, in July, 1667. In July, 1673, a Dutch fleet recaptured New York, and held it until it was restored to the English by the treaty of Westminster in February, 1674. The second grant was obtained by the Duke of York in July, 1674, to perfect his title. The original grants are in the New York State Library.

This constitution was framed by a convention which assembled at White Plains, July 10, 1776, and, after repeated adjournments and changes of location, terminated its labors at Kingston, Sunday evening, April 20, 1777, when the constitution was adopted, with but one dissenting vote. It was not submitted to the people for ratification. It was drafted by John Jay.

"And whereas doubts have arisen whether this congress are invested with sufficient power and authority to deliberate and determine on so important a subject as the necessity of erecting and constituting a new form of government and internal police, to the exclusion of all foreign jurisdiction, dominion, and control whatever; and whereas it appertains of right solely to the people of this colony to determine the said doubts: Therefore,

"*Resolved*, That it be recommended to the electors in the several counties in this colony, by election, in the manner and form prescribed for the election of the present congress, either to authorize (in addition to the powers vested in this congress) their present deputies, or others in the stead of their present deputies, or either of them, to take into consideration the necessity and propriety of instituting such new government as in and by the said resolution of the Continental Congress is described and recommended; and if the majority of the counties, by their deputies in provincial congress, shall be of opinion that such new government ought to be instituted and established, then to institute and establish such a government as they shall deem best calculated to secure the rights, liberties, and happiness of the good people of this colony; and to continue in force until a future peace with Great Britain shall render the same unnecessary; and

"*Resolved*, That the said elections in the several counties ought to be had on such day, and at such place or places, as by the committee of each county respectively shall be determined. And it is recommended to the said committees to fix such early days for the said elections as that all the deputies to be elected have sufficient time to repair to the city of New York by the second Monday in July next; on which day all the said deputies ought punctually to give their attendance.

"And whereas the object of the aforegoing resolutions is of the utmost importance to the good people of this colony:

"*Resolved*, That it be, and it is hereby, earnestly recommended to the committees, freeholders, and other electors in the different counties in this colony diligently to carry the same into execution."

And whereas the good people of the said colony, in pursuance of the said resolution, and reposing special trust and confidence in the members of this convention, have appointed, authorized, and empowered them for the purposes, and in the manner, and with the powers in and by the said resolve specified, declared, and mentioned.

And whereas the Delegates of the United American States, in general Congress convened, did, on the fourth day of July now last past, solemnly publish and declare, in the words following, viz:

"When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are, life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted

among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes, and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former system of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

"He has refused his assent to laws, the most wholesome and necessary for the public good.

"He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

"He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature; a right inestimable to them, and formidable to tyrants only.

"He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

"He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

"He has refused for a long time, after such dissolutions, to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

"He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

"He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

"He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

"He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

"He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

" He has affected to render the military independent of, and superior to, the civil power.

" He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

" For quartering large bodies of troops among us:

" For protecting them, by a mock trial, from punishment for any murders they should commit on the inhabitants of these States:

" For cutting off our trade with all parts of the world:

" For imposing taxes on us without our consent:

" For depriving us, in many cases, of the benefits of trial by jury:

" For transporting us beyond seas, to be tried for pretended offences:

" For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

" For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

" For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

" He has abdicated government here, by declaring us out of his protection, and waging war against us.

" He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

" He is at this time transporting large armies of foreign mercenaries to complete the work of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

" He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

" He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

" In every stage of these oppressions, we have petitioned for redress in the most humble terms. Our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

" Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must therefore acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war; in peace, friends.

"We, therefore, the Representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, That these united colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."

And whereas this convention, having taken this declaration into their most serious consideration, did, on the ninth day of July last past, unanimously resolve that the reasons assigned by the Continental Congress for declaring the united colonies free and independent States are cogent and conclusive; and that while we lament the cruel necessity which has rendered that measure unavoidable, we approve the same, and will, at the risk of our lives and fortunes, join with the other colonies in supporting it.

By virtue of which several acts, declarations, and proceedings mentioned and contained in the afore-cited resolves or resolutions of the general Congress of the United American States, and of the congresses or conventions of this State, all power whatever therein hath reverted to the people thereof, and this convention hath by their suffrages and free choice been appointed, and among other things authorized to institute and establish such a government as they shall deem best calculated to secure the rights and liberties of the good people of this State, most conducive of the happiness and safety of their constituents in particular, and of America in general.

I. This convention, therefore, in the name and by the authority of the good people of this State, doth ordain, determine, and declare that no authority shall, on any pretence whatever, be exercised over the people or members of this State but such as shall be derived from and granted by them.

II. This convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that the supreme legislative power within this State shall be vested in two separate and distinct bodies of men; the one to be called the assembly of the State of New York, the other to be called the senate of the State of New York; who together shall form the legislature, and meet once at least in every year for the despatch of business.

III. And whereas laws inconsistent with the spirit of this constitution, or with the public good, may be hastily and unadvisedly passed: Be it ordained, that the governor for the time being, the chancellor, and the judges of the supreme court, or any two of them, together with the governor, shall be, and hereby are, constituted a council to revise all bills about to be passed into laws by the legislature; and for that purpose shall assemble themselves from time to time, when the legislature shall be convened; for which, nevertheless, they shall not

receive any salary or consideration, under any pretence whatever. And that all bills which have passed the senate and assembly shall, before they become laws, be presented to the said council for their revisal and consideration; and if, upon such revision and consideration, it should appear improper to the said council, or a majority of them, that the said bill should become a law of this State, that they return the same, together with their objections thereto in writing, to the senate or house of assembly (in which soever the same shall have originated) who shall enter the objection sent down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, two-thirds of the said senate or house of assembly shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and, if approved by two-thirds of the members present, shall be a law.

And in order to prevent any unnecessary delays, be it further ordained, that if any bill shall not be returned by the council within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable; in which case the bill shall be returned on the first day of the meeting of the legislature after the expiration of the said ten days.[a]

IV. That the assembly shall consist of at least seventy members, to be annually chosen in the several counties, in the proportions following, viz:

For the city and county of New York, nine.
The city and county of Albany, ten.
The county of Dutchess, seven.
The county of Westchester, six.
The county of Ulster, six.
The county of Suffolk, five.
The county of Queens, four.
The county of Orange, four.
The county of Kings, two.
The county of Richmond, two.
Tryon County,[b] six.
Charlotte County,[c] four.
Cumberland County,[d] three.
Gloucester County,[d] two.

V. That as soon after the expiration of seven years (subsequent to the termination of the present war) as may be a census of the electors and inhabitants in this State be taken, under the direction of the legislature.[e] And if, on such census, it shall appear that the number of representatives in assembly from the said counties is not justly proportioned to the number of electors in the said counties respectively,

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[a] The whole number of bills passed by the legislature under this constitution was six thousand five hundred and ninety. The council of revision objected to one hundred and twenty-eight, of which seventeen were passed notwithstanding these objections.—*Hough.*

[b] Now Montgomery County.

[c] Now Washington County.

[d] Now included in the State of Vermont.

[e] The first census under this constitution was taken in 1790. thers were taken in 1795, 1801, 1807, 1814, and 1821.—*Hough.*

that the legislature do adjust and apportion the same by that rule. And further, that once in ever seven years, after the taking of the said first census, a just account of the electors resident in each county shall be taken, and if it shall thereupon appear that the number of electors in any county shall have increased or diminished one or more seventieth parts of the whole number of electors, which, on the said first census, shall be found in this State, the number of representatives for such county shall be increased or diminished accordingly, that is to say, one representative for every seventieth part as aforesaid.[a]

VI. And whereas an opinion hath long prevailed among divers of the good people of this State that voting at elections by ballot would tend more to preserve the liberty and equal freedom of the people than voting *viva voce:* To the end, therefore, that a fair experiment be made, which of those two methods of voting is to be preferred—

Be it ordained, That as soon as may be after the termination of the present war between the United States of America and Great Britain, an act or acts be passed by the legislature of this State for causing all elections thereafter to be held in this State for senators and representatives in assembly to be by ballot, and directing the manner in which the same shall be conducted.[b] And whereas it is possible that, after all the care of the legislature in framing the said act or acts, certain inconveniences and mischiefs, unforseen at this day, may be found to attend the said mode of electing by ballot:

It is further ordained, That if, after a full and fair experiment shall be made of voting by ballot aforesaid, the same shall be found less conducive to the safety or interest of the State than the method of voting *viva voce*, it shall be lawful and constitutional for the legislature to abolish the same, provided two-thirds of the members present in each house, respectively, shall concur therein. And further, that, during the continuance of the present war, and until the legislature of this State shall provide for the election of senators and representatives in assembly by ballot, the said election shall be made *viva voce*.

VII. That every male inhabitant of full age, who shall have personally resided within one of the counties of this State for six months immediately preceding the day of election, shall, at such election, be entitled to vote for representatives of the said county in assembly; if, during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds, within the said county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to this State: *Provided always*, That every person who now is a freeman of the city of Albany, or who was made a freeman of the city of New York on or before the fourteenth day of October, in the year of our Lord one

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[a] See amendments.

[b] The first act under this clause was passed March 27,1778, and introduced the practice of voting by ballot for governor and lieutenant-governor only, but retained the *viva voce* method for senators and assemblymen. By an act of February 13, 1787, the mode of voting by ballot for the latter was introduced. The boxes containing the ballots for governor, lieutenant-governor, and senators were returned by the sheriffs to the secretary of state, to be canvassed by a joint committee of the legislature, until March 27, 1799, when the system of inspection and canvassing by local wards was introduced.—*Hough.*

thousand seven hundred and seventy-five, and shall be actually and usually resident in the said cities, respectively, shall be entitled to vote for representatives in assembly within his said place of residence.

VIII. That every elector, before he is admitted to vote, shall, if required by the returning-officer or either of the inspectors, take an oath, or, if of the people called Quakers, an affirmation, of allegiance to the State.

IX. That the assembly, thus constituted, shall choose their own speaker, be judges of their own members, and enjoy the same privileges, and proceed in doing business in like manner as the assemblies of the colony of New York of right formerly did; and that a majority of the said members shall, from time to time, constitute a house, to proceed upon business.

X. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that the senate of the State of New York shall consist of twenty-four freeholders to be chosen out of the body of the freeholders; and that they be chosen by the freeholders of this State, possessed of freeholds of the value of one hundred pounds, over and above all debts charged thereon.

XI. That the members of the senate be elected for four years; and, immediately after the first election, they be divided by lot into four classes, six in each class, and numbered one, two, three, and four; that the seats of the members of the first class shall be vacated at the expiration of the first year, the second class the second year, and so on continually; to the end that the fourth part of the senate, as nearly as possible, may be annually chosen.

XII. That the election of senators shall be after this manner: That so much of this State as is now parcelled into counties be divided into four great districts; the southern district to comprehend the city and county of New York, Suffolk, Westchester, Kings, Queens, and Richmond Counties; the middle district to comprehend the counties of Dutchess, Ulster, and Orange; the western district, the city and county of Albany, and Tryon County; and the eastern district, the counties of Charlotte, Cumberland, and Gloucester. That the senators shall be elected by the freeholders of the said districts, qualified as aforesaid, in the proportions following, to wit: in the southern district, nine; in the middle district, six; in the western district, six; and in the eastern district, three. And be it ordained, that a census shall be taken, as soon as may be after the expiration of seven years from the termination of the present war, under the direction of the legislature; and if, on such census, it shall appear that the number of senators is not justly proportioned to the several districts, that the legislature adjust the proportion, as near as may be, to the number of freeholders, qualified as aforesaid, in each district.[a] That when the number of electors, within any of the said districts, shall have increased one twenty-fourth part of the whole number of electors, which, by the said census, shall be found to be in this State, an additional senator shall be chosen by the electors of such district. That a majority of the number of senators to be chosen aforesaid shall be necessary to constitute a senate sufficient to proceed upon business;

[a] Under this clause, a new arrangement of senatorial districts was made February 7, 1791; March 4, 1796; and April 17, 1815.—*Hough.*

and that the senate shall, in like manner with the assembly, be the judges of its own members. And be it ordained, that it shall be in the power of the future legislatures of this State, for the convenience and advantage of the good people thereof, to divide the same into such further and other counties and districts as shall to them appear necessary.

XIII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that no member of this State shall be disfranchised, or deprived of any the rights or privileges secured to the subjects of this State by this constitution, unless by the law of the land, or the judgment of his peers.

XIV. That neither the assembly or the senate shall have the power to adjourn themselves, for any longer time than two days, without the mutual consent of both.

XV. That whenever the assembly and senate disagree, a conference shall be held, in the preference of both, and be managed by committees, to be by them respectively chosen by ballot. That the doors, both of the senate and assembly, shall at all times be kept open to all persons, except when the welfare of the State shall require their debates to be kept secret. And the journals of all their proceedings shall be kept in the manner heretofore accustomed by the general assembly of the colony of New York; and except such parts as they shall, as aforesaid, respectively determine not to make public be from day to day (if the business of the legislature will permit) published.

XVI. It is nevertheless provided, that the number of senators shall never exceed one hundred, nor the number of the assembly three hundred; but that whenever the number of senators shall amount to one hundred, or of the assembly to three hundred, then and in such case the legislature shall, from time to time thereafter, by laws for that purpose, apportion and distribute the said one hundred senators and three hundred representatives among the great districts and counties of this State, in proportion to the number of their respective electors; so that the representation of the good people of this State, both in the senate and assembly, shall forever remain proportionate and adequate.[a]

XVII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that the supreme executive power and authority of this State shall be vested in a governor; and that statedly, once in every three years, and as often as the seat of government shall become vacant, a wise and descreet freeholder of this State shall be, by ballot, elected governor, by the freeholders of this State, qualified, as before described, to elect senators; which elections shall be always held at the times and places of choosing representatives in assembly for each respective county; and that the person who hath the greatest number of votes within the said State shall be governor thereof.

XVIII. That the governor shall continue in office three years, and shall, by virtue of his office, be general and commander-in-chief of all the militia, and admiral of the navy of this State; that he shall have power to convene the assembly and senate on extraordinary occasions; to prorogue them from time to time, provided such prorogations shall

[a] See amendment.

not exceed sixty days in the space of any one year; and, at his discretion, to grant reprieves and pardons to persons convicted of crimes, other than treason or murder, in which he may suspend the execution of the sentence, until it shall be reported to the legislature at their subsequent meeting; and they shall either pardon or direct the execution of the criminal, or grant a further reprieve.

XIX. That it shall be the duty of the governor to inform the legislature, at every session, of the condition of the State, so far as may respect his department; to recommend such matters to their consideration as shall appear to him to concern its good government, welfare, and prosperity; to correspond with the Continental Congress, and other States; to transact all necessary business with the officers of government, civil and military; to take care that the laws are faithfully executed to the best of his ability; and to expedite all such measures as may be resolved upon by the legislature.

XX. That a lieutenant-governor shall, at every election of a governor, and as often as the lieutenant-governor shall die, resign, or be removed from office, be elected in the same manner with the governor, to continue in office until the next election of a governor; and such lieutenant-governor shall, by virtue of his office, be president of the senate, and, upon an equal division, have a casting voice in their decisions, but not vote on any other occasion. And in case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor until another be chosen, or the governor absent or impeached shall return or be acquitted: *Provided*, That where the governor shall, with the consent of the legislature, be out of the State, in time of war, at the head of a military force thereof, he shall still continue in his command of all the military force of this State both by sea and land.

XXI. That whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senators shall have power to elect one of their own members to the office of president of the senate, which he shall exercise *pro hac vice*. And if, during such vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the State, the president of the senate shall, in like manner as the lieutenant-governor, administer the government, until others shall be elected by the suffrage of the people, at the succeeding election.

XXII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that the treasurer of this State shall be appointed by act of the legislature, to originate with the assembly: *Provided*, that he shall not be elected out of either branch of the legislature.

XXIII. That all officers, other than those who, by this constitution, are directed to be otherwise appointed, shall be appointed in the manner following, to wit: The assembly shall, once in every year, openly nominate and appoint one of the senators from each great district, which senators shall form a council for the appointment of the said officers, of which the governor for the time being, or the lieutenant-governor, or the president of the senate, when they shall respectively administer the government, shall be president and have a casting voice, but no other vote; and with the advice and consent of the said

council, shall appoint all the said officers; and that a majority of the said council be a quorum.[a] And further, the said senators shall not be eligible to the said council for two years successively.

XXIV. That all military officers be appointed during pleasure; that all commissioned officers, civil and military, be commissioned by the governor; and that the chancellor, the judges of the supreme court, and first judge of the county court in every county, hold their offices during good behavior or until they shall have respectively attained the age of sixty years.

XXV. That the chancellor and judges of the supreme court shall not, at the same time, hold any other office, excepting that of Delegate to the general Congress, upon special occasions; and that the first judges of the county courts, in the several counties, shall not, at the same time, hold any other office, excepting that of Senator or Delegate to the general Congress. But if the chancellor, or either of the said judges, be elected or appointed to any other office, excepting as is before excepted, it shall be at his option in which to serve.

XXVI. That sheriffs and coroners be annually appointed; and that no person shall be capable of holding either of the said offices more than four years successively; nor the sheriff of holding any other office at the same time.

XXVII. *And be it further ordained*, That the register and clerks in chancery be appointed by the chancellor; the clerks of the supreme court, by the judges of the said court; the clerk of the court of probate, by the judge of the said court; and the register and marshal of the court of admiralty, by the judge of the admiralty. The said marshal, registers, and clerks to continue in office during the pleasure of those by whom they are appointed as aforesaid.

And that all attorneys, solicitors, and counsellors at law hereafter to be appointed, be appointed by the court, and licensed by the first judge of the court in which they shall respectively plead or practise, and be regulated by the rules and orders of the said courts.

XXVIII. *And be it further ordained*, That where, by this convention, the duration of any office shall not be ascertained, such office shall be construed to be held during the pleasure of the council of appointment: *Provided*, That new commissions shall be issued to judges of the county courts (other than to the first judge) and to justices of the peace, once at the least in every three years.

XXIX. That town clerks, supervisors, assessors, constables, and collectors, and all other officers, heretofore eligible by the people, shall always continue to be so eligible, in the manner directed by the present or future acts of legislature.

That loan officers, county treasurers, and clerks of the supervisors, continue to be appointed in the manner directed by the present or future acts of the legislature.

XXX. That Delegates to represent this State in the general Congress of the United States of America be annually appointed as follows, to wit: The senate and assembly shall each openly nominate as many persons as shall be equal to the whole number of Delegates to be appointed; after which nomination they shall meet together, and those persons named in both lists shall be Delegates; and out of

[a] See amendment.

those persons whose names are not on both lists, one-half shall be chosen by the joint ballot of the senators and members of assembly so met together as aforesaid.

XXXI. That the style of all laws shall be as follows, to wit: "*Be it enacted by the people of the State of New York, represented in senate and assembly;*" and that all writs and other proceedings shall run in the name of "The people of the State of New York," and be tested in the name of the chancellor, or chief judge of the court from whence they shall issue.

XXXII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that a court shall be instituted for the trial of impeachments, and the correction of errors, under the regulations which shall be established by the legislature; and to consist of the president of the senate, for the time being, and the senators, chancellor, and judges of the supreme court, or the major part of them; except that when an impeachment shall be prosecuted against the chancellor, or either of the judges of the supreme court, the person so impeached shall be suspended from exercising his office until his acquittal; and, in like manner, when an appeal from a decree in equity shall be heard, the chancellor shall inform the court of the reasons of his decree, but shall not have a voice in the final sentence. And if the cause to be determined shall be brought up by writ of error, on a question of law, on a judgment in the supreme court, the judges of that court shall assign the reasons of such their judgment, but shall not have a voice for its affirmance or reversal.

XXXIII. That the power of impeaching all officers of the State, for mal and corrupt conduct in their respective offices, be vested in the representatives of the people in assembly; but that it shall always be necessary that two third parts of the members present shall consent to and agree in such impeachment. That previous to the trial of every impeachment, the members of the said court shall respectively be sworn truly and impartially to try and determine the charge in question, according to evidence; and that no judgment of the said court shall be valid unless it be assented to by two third parts of the members then present; nor shall it extend farther than to removal from office, and disqualification to hold or enjoy any place of honor, trust, or profit under this State. But the party so convicted shall be, nevertheless, liable and subject to indictment, trial, judgment, and punishment, according to the laws of the land.

XXXIV. *And it is further ordained*, That in every trial on impeachment, or indictment for crimes or misdemeanors, the party impeached or indicted shall be allowed counsel, as in civil actions.

XXXV. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the 19th day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this State, subject to such alterations and provisions as the legislature of this State shall, from time to time, make concerning the same. That such of the said acts, as are temporary,

shall expire at the times limited for their duration, respectively. That all such parts of the said common law, and all such of the said statutes and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of Christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives claimed or exercised by, the King of Great Britain and his predecessors, over the colony of New York and its inhabitants, or are repugnant to this constitution, be, and they hereby are, abrogated and rejected. And this convention doth further ordain, that the resolves or resolutions of the congresses of the colony of New York, and of the convention of the State of New York, now in force, and not repugnant to the government established by this constitution, shall be considered as making part of the laws of this State; subject, nevertheless, to such alterations and provisions as the legislature of this State may, from time to time, make concerning the same.

XXXVI. *And be it further ordained*, That all grants of lands within this State, made by the King of Great Britian, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but that nothing in this constitution contained shall be construed to affect any grants of land within this State, made by the authority of the said King or his predecessors, or to annul any charters to bodies-politic by him or them, or any of them, made prior to that day. And that none of the said charters shall be adjudged to be void by reason of any non-user or misuser of any of their respective rights or privileges between the nineteenth day of April, in the year of our Lord one thousand seven hundred and seventy-five and the publication of this constitution. And further, that all such of the officers described in the said charters respectively as, by the terms of the said charters, were to be appointed by the governor of the colony of New York, with or without the advice and consent of the council of the said King, in the said colony, shall henceforth be appointed by the council established by this constitution for the appointment of officers in this State, until otherwise directed by the legislature.

XXXVII. And whereas it is of great importance to the safety of this State that peace and amity with the Indians within the same be at all times supported and maintained; and whereas the frauds too often practised towards the said Indians, in contracts made for their lands, have, in divers instances, been productive of dangerous discontents and animosities: Be it ordained, that no purchases or contracts for the sale of lands, made since the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, or which may hereafter be made with or of the said Indians, within the limits of this State, shall be binding on the said Indians, or deemed valid, unless made under the authority and with the consent of the legislature of this State.

XXXVIII. And whereas we are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind, this convention doth further, in the name

and by the authority of the good people of this State, ordain, determine, and declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed, within this State, to all mankind: *Provided*, That the liberty of conscience, hereby granted, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

XXXIX. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their function; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall, at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding, any civil or military office or place within this State.

XL. And whereas it is of the utmost importance to the safety of every State that it should always be in a condition of defence; and it is the duty of every man who enjoys the protection of society to be prepared and willing to defend it; this convention therefore, in the name and by the authority of the good people of this State, doth ordain, determine, and declare that the militia of this State, at all times hereafter, as well in peace as in war, shall be armed and disciplined, and in readiness for service. That all such of the inhabitants of this State being of the people called Quakers as, from scruples of conscience, may be averse to the bearing of arms, be therefrom excused by the legislature; and do pay to the State such sums of money, in lieu of their personal service, as the same may, in the judgment of the legislature, be worth.[a] And that a proper magazine of warlike stores, proportionate to the number of inhabitants, be, forever hereafter, at the expense of this State, and by acts of the legislature, established, maintained, and continued in every county in this State.

XLI. And this convention doth further ordain, determine, and declare, in the name and by the authority of the good people of this State, that trial by jury, in all cases in which it hath heretofore been used in the colony of New York, shall be established and remain inviolate forever. And that no acts of attainder shall be passed by the legislature of this State for crimes, other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood.[b] And further, that the legislature of this State shall, at no time hereafter, institute any new court or courts, but such as shall proceed according to the course of the common law.

XLII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that it shall be in the discretion of the legislature to naturalize all such persons, and in such manner, as they shall think proper: *Provided*, All such of the persons so to be by them naturalized, as being born in parts beyond sea, and out of the United States of America, shall come to settle in and become subjects of this State,

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[a] This exemption-fee was fixed at £10 per annum by the act of April 3, 1778, organizing the militia of the State.—*Hough.*

[b] By an act of October 23, 1779, fifty-eight persons, of whom three were females, were attainted and banished from the State for adherence to the enemy. This is the only act passed under the above clause.—*Hough.*

shall take an oath of allegiance to this State, and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and State in all matters, ecclesiastical as well as civil.[a]

By order.

LEONARD GANSEVOORT,
President pro tempore.

AMENDMENTS TO THE CONSTITUTION OF 1777 * [b]

IN CONVENTION OF DELEGATES,
Albany, October 27, 1801.

Whereas the legislature of this State, by their act passed the sixth day of April last, did propose to the citizens of this State to elect by ballot delegates to meet in convention, "for the purpose of considering the parts of the constitution of this State respecting the number of senators and members of assembly in this State, and with power to reduce and limit the number of them as the said convention might deem proper; and also for the purpose of considering and determining the true construction of the twenty-third article of the constitution of this State, relative to the right of nomination to office;"

And whereas the people of this State have elected the members of this convention for the purpose above expressed; and this convention having maturely considered the subjects thus submitted to their determination, do, in the name and by the authority of the people of this State, ordain, determine, and declare:

I. That the number of the members of the assembly hereafter to be elected shall be one hundred, and shall never exceed one hundred and fifty.

II. That the legislature at their next session shall apportion the said one hundred members of the assembly among the several counties of this State, as nearly as may be, according to the number of electors which shall be found to be in each county by the census directed to be taken in the present year.

III. That from the first Monday in July next, the number of the senators shall be permanently thirty-two, and that the present number of senators shall be reduced to thirty-two in the following manner, that is to say: The seats of the eleven senators composing the first class, whose time of service will expire on the first Monday in July next, shall not be filled up; and out of the second class the seats of one senator from the middle district and of one senator from the

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* See "Journal of the Convention of the State of New York, Begun and held at the city of Albany on the 13th Day of October, 1801. Albany: Printed by John Barber, Printer to the Convention, MDCCCI." pp. 42.

[a] The custom of naturalizing aliens by special act was first introduced by the colonial general assembly in 1717, and was continued by the State legislature until the adoption of the Federal Constitution in 1789. After that date the right to hold land upon declaring an intention to become naturalized was granted by special act until 1825, when a general law for this purpose was passed.—*Hough.*

[b] These amendments were framed by a convention which assembled at Albany October 13, 1801, and terminated its labors October 27, 1801. They were not submitted to the people for ratification.

southern district shall be vacated by the senators of those districts belonging to that class casting lots among themselves; out of the third class, the seats of two senators from the middle district and of one senator from the eastern district, shall be vacated in the same manner; out of the fourth class, the seats of one senator from the middle district, of one senator from the eastern district, and of one senator from the western district shall be vacated in the same manner; and if any of the said classes shall neglect to cast lots, the senate shall in such case proceed to cast lots for such class or classes so neglecting. And that eight senators shall be chosen at the next election in such districts as the legislature shall direct, for the purpose of apportioning the whole number of senators amongst the four great districts of this State, as nearly as may be, according to the number of electors qualified to vote for senators, which shall be found to be in each of the said districts by the census above mentioned; which eight senators so to be chosen shall form the first class.

IV. That from the first Monday in July next, and on the return of every census thereafter, the number of the assembly shall be increased at the rate of two members for every year, until the whole number shall amount to one hundred and fifty; and that upon the return of every such census, the legislature shall apportion the senators and members of the assembly amongst the great districts and counties of this State, as nearly as may be, according to the number of their respective electors: *Provided*, That the legislature shall not be prohibited by anything herein contained from allowing one member of assembly to each county heretofore erected within this State.

V. And this convention do further, in the name and by the authority of the people of this State, ordain, determine, and declare, that by the true construction of the twenty-third article of the constitution of this State, the right to nominate all officers, other than those who by the constitution are directed to be otherwise appointed, is vested concurrently in the person administering the government of this State for the time being and in each of the members of the council of appointment.

By order.

Attest: A. Burr, *President.*

James Van Ingen,
Joseph Constant,
Secretaries.

CONSTITUTION OF NEW YORK—1821 * [a]

We, the people of the State of New York, acknowledging with gratitude the grace and beneficence of God in permitting us to make choice of our form of government, do establish this constitution.

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* See "Report of the Debates and Proceedings of the Convention of the State of New York Held at the Capitol, in the City of Albany, on the 28th day of August, 1821. By L. H. Clarke. New York: Printed by J. Seymour, 49 John Street. Nov. 1821." pp. 354–359.

"Journal of the Convention of the State of New-York. Begun and held at the Capitol in the City of Albany, on the twenty-eighth Day of August, 1821. Albany: Printed by Contiur and Leake, Printers to the State. 1821." pp. 564.

"Reports of the Proceedings and Debates of the Convention of 1821, assem-

Article I

Section 1. The legislative power of this State shall be vested in a senate and assembly.

Sec. 2. The senate shall consist of thirty-two members. The senators shall be chosen for four years, and shall be freeholders. The assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

Sec. 3. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each house shall choose its own officers; and the senate shall choose a temporary president when the lieutenant-governor shall not attend as president or shall act as governor.

Sec. 4. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

Sec. 5. The State shall be divided into eight districts, to be called senate districts, each of which shall choose four senators.

The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond, and New York.

The second district shall consist of the counties of Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, and Sullivan.

The third district shall consist of the counties of Greene, Columbia, Albany, Rensselaer, Schoharie, and Schenectady.

The fourth district shall consist of the counties of Saratoga, Montgomery, Hamilton, Washington, Warren, Clinton, Essex, Franklin, and Saint Lawrence.

The fifth district shall consist of the counties of Herkimer, Oneida, Madison, Oswego, Lewis, and Jefferson.

The sixth district shall consist of the counties of Delaware, Otsego, Chenango, Broome, Cortland, Tompkins, and Tioga.

The seventh district shall consist of the counties of Onondaga, Cayuga, Seneca, and Ontario.

The eighth district shall consist of the counties of Steuben, Livingston, Monroe, Genesee, Niagara, Erie, Allegany, Cattaraugus, and Chatauque.

And as soon as the senate shall meet, after the first election to be held in pursuance of this constitution, they shall cause the senators to be divided by lot into four classes of eight in each, so that every district shall have one senator of each class; the classes to be numbered one, two, three, and four. And the seats of the first class shall be vacated at the end of the first year; of the second class, at the end of the second year; of the third class, at the end of the third year;

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bled for the purpose of amending the Constitution of the State of New York: containing all the official Documents, relating to the Subject, and other valuable matter. By Nathaniel H. Carter and William L. Stone, Reporters; and Marcus T. C. Gould, Stenographer. Albany: Printed and Published by E. and E. Hosford. 1821." pp. 659–670.

[a] This constitution was framed by a convention which assembled at Albany August 28, 1821, and completed its labors November 10, 1821. It was ratified in February, 1822, receiving 74,732 votes against 41,402 votes.

of the fourth class, at the end of the fourth year, in order that one senator be annually elected in each senate district.

SEC. 6. An enumeration of the inhabitants of the State shall be taken, under the direction of the legislature, in the year one thousand eight hundred and twenty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, paupers, and persons of color not taxed; and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district.

SEC. 7. The members of the assembly shall be chosen by counties, and shall be apportioned among the several counties of the State, as nearly as may be, according to the numbers of their respective inhabitants, excluding aliens, paupers, and persons of color not taxed. An apportionment of members of assembly shall be made by the legislature, at its first session after the return of every enumeration; and when made, shall remain unaltered until another enumeration shall have been taken. But an apportionment of members of the assembly shall be made by the present legislature, according to the last enumeration taken under the authority of the United States, as nearly as may be. Every county heretofore established, and separately organized, shall always be entitled to one member of the assembly; and no new county shall hereafter be erected, unless its population shall entitle it to a member.

SEC. 8. Any bill may originate in either house of the legislature; and all bills passed by one house may be amended by the other.

SEC. 9. The members of the legislature shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the year in which it shall have been made. And no law shall be passed increasing the compensation of the members of the legislature beyond the sum of three dollars a day.

SEC. 10. No member of the legislature shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he shall have been elected.

SEC. 11. No person being a member of Congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature. And if any person shall, while a member of the legislature, be elected to Congress, or appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SEC. 12. Every bill which shall have passed the senate and assembly shall, before it become a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated; who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members present, it shall become a law. But in all such cases the votes of both houses shall

be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

Sec. 13. All officers holding their offices during good behavior may be removed by joint resolution of the two houses of the legislature, if two-thirds of all the members elected to the assembly and a majority of all the members elected to the senate concur therein.

Sec. 14. The political year shall begin on the first day of January; and the legislature shall, every year, assemble on the first Tuesday of January, unless a different day shall be appointed by law.

Sec. 15. The next election for governor, lieutenant-governor, senators and members of assembly, shall commence on the first Monday of November, one thousand eight hundred and twenty-two; and all subsequent elections shall be held at such time in the month of October or November as the legislature shall by law provide.

Sec. 16. The governor, lieutenant-governor, senators and members of assembly, first elected under this constitution, shall enter on the duties of their respective offices on the first day of January, one thousand eight hundred and twenty-three; and the governor, lieutenant-governor, senators and members of assembly, now in office, shall continue to hold the same until the first day of January, one thousand eight hundred and twenty-three, and no longer.

Article II

Section 1. Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this State one year preceding any election, and for the last six months a resident of the town or county where he may offer his vote; and shall have, within the year next preceding the election, paid a tax to the State or county, assessed upon his real or personal property; or shall by law be exempted from taxation; or being armed and equipped according to law, shall have performed within that year military duty in the militia of this State; or who shall be exempted from performing militia duty in consequence of being a fireman in any city, town, or village in this State; and also, every male citizen of the age of twenty-one years, who shall have been, for three years next preceding such election, an inhabitant of this State; and for the last year a resident in the town or county where he may offer his vote; and shall have been, within the last year, assessed to labor upon the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people;[a] but no man of color, unless he shall have been for three years a citizen of this State, and for one year next preceding any election shall be seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and shall have

[a] See amendment.

been actually rated, and paid a tax thereon, shall be entitled to vote at any such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

SEC. 2. Laws may be passed excluding from the right of suffrage persons who have been or may be convicted of infamous crimes.

SEC. 3. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 4. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

ARTICLE III

SECTION 1. The executive power shall be vested in a governor. He shall hold his office for two years; and a lieutenant-governor shall be chosen at the same time and for the same term.

SEC. 2. No person, except a native citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office who shall not be a freeholder, and shall not have attained the age of thirty years, and have been five years a resident within this State; unless he shall have been absent during that time on public business of the United States or of this State.

SEC. 3. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be elected; but in case two or more shall have an equal and the highest number of votes for governor or for lieutenant-governor, the two houses of the legislature shall, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant-governor.

SEC. 4. The governor shall be general and commander-in-chief of all the militia and admiral of the navy of the State. He shall have power to convene the legislature (or the senate only) on extraordinary occasions. He shall communicate by message to the legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 5. The governor shall have power to grant reprieves and pardons, after conviction, for all offences, except treason and cases of impeachment. Upon convictions for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon or direct the execution of the criminal, or grant a farther reprieve.

SEC. 6. In case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the governor absent or impeached

shall return or be acquitted. But when the governor shall, with the consent of the legislature, be out of the State, in time of war, at the head of a military force thereof, he shall still continue commander-in-chief of all the military force of the State.

Sec. 7. The lieutenant-governor shall be president of the senate, but shall have only a casting vote therein. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the State, the president of the senate shall act as governor, until the vacancy shall be filled or the disability shall cease.

Article IV

Section 1. Militia officers shall be chosen or appointed as follows: Captains, subalterns, and non-commisisoned officers shall be chosen by the written votes of the members of their respective companies; field-officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments and separate battalions; brigadier-generals, by the field-officers of their respective brigades; major-generals, brigadier-generals, and commanding officers of regiments or separate battalions shall appoint the staff-officers of their respective divisions, brigades, regiments, or separate battalions.

Sec. 2. The governor shall nominate and, with the consent of the senate, appoint all major-generals, brigade-inspectors, and chiefs of the staff departments, except the adjutant-general and commissary-general. The adjutant-general shall be appointed by the governor.

Sec. 3. The legislature shall by law direct the time and manner of electing militia officers, and of certifying their elections to the governor.

Sec. 4. The commissioned officers of the militia shall be commissioned by the governor, and no commissioned officer shall be removed from office, unless by the senate on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commission, subject to removal as before provided.

Sec. 5. In case the mode of election and appointment of militia officers, hereby directed, shall not be found conducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house shall concur therein.

Sec. 6. The secretary of state, comptroller, treasurer, attorney-general, surveyor-general, and commissary-general shall be appointed as follows: The senate and assembly shall each openly nominate one person for the said offices respectively; after which they shall meet together, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated. If they shall disagree, the appointment shall be made by the joint ballot of the senators and members of assembly. The treasurer shall be chosen annually. The secretary of state, comptroller, attorney-general, surveyor-general, and commissary-general shall hold their offices for three years, unless sooner removed by concurrent resolution of the senate and assembly.

SEC. 7. The governor shall nominate, by message, in writing, and with the consent of the senate shall appoint, all judicial officers, except justices of the peace, who shall be appointed in manner following, that is to say: The board of supervisors in every county in this State shall, at such times as the legislature may direct, meet together; and they, or a majority of them so assembled, shall nominate so many persons as shall be equal to the number of justices of the peace to be appointed in the several towns in the respective counties. And the judges of the respective county courts, or a majority of them, shall also meet and nominate a like number of persons; and it shall be the duty of the said board of supervisors and judges of county courts to compare such nominations, at such time and place as the legislature may direct. And if on such comparison the said boards of supervisors and judges of county courts shall agree in their nominations, in all or in part, they shall file a certificate of the nominations in which they shall agree in the office of the clerk of the county; and the person or persons named in such certificates shall be justices of the peace. And in case of disagreement in whole or in part, it shall be the further duty of the said boards of supervisors and judges respectively to transmit their said nominations, so far as they disagree in the same, to the governor, who shall select from the said nominations and appoint so many justices of the peace as shall be requisite to fill the vacancies.[a]

Every person appointed a justice of the peace shall hold his office for four years, unless removed by the county court, for causes particularly assigned by the judges of the said court. And no justice of the peace shall be removed until he shall have notice of the charges made against him, and an opportunity of being heard in his defence.

SEC. 8. Sheriffs and clerks of counties, including the register and clerk of the city and county of New York, shall be chosen by the electors of the respective counties once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff; and the governor may remove any such sheriff, clerk, or register at any time within the three years for which he shall be elected, giving to such sheriff, clerk, or register a copy of the charge against him, and an opportunity of being heard in his defence, before any removal shall be made.

SEC. 9. The clerks of courts, except those whose appointment is provided for in the preceding section, shall be appointed by the courts of which they respectively are clerks; and district attorneys by the county courts. Clerks of courts and district attorneys shall hold their offices for three years, unless sooner removed by the courts appointing them.

SEC. 10. The mayors of all the cities in this State shall be appointed anually, by the common councils of the respective cities.[a]

SEC. 11. So many coroners as the legislature may direct, not exceeding four in each county, shall be elected in the same manner as

[a] See amendment.

sheriffs, and shall hold their offices for the same term, and be removable in like manner.

Sec. 12. The governor shall nominate and, with the consent of the senate, appoint masters and examiners in chancery; who shall hold their offices for three years, unless sooner removed by the senate, on the recommendation of the governor. The registers and assistant registers shall be appointed by the chancellor, and hold their offices during his pleasure.

Sec. 13. The clerk of the court of oyer and terminer, and general sessions of the peace, in and for the city and county of New York, shall be appointed by the court of general sessions of the peace in said city, and hold his office during the pleasure of the said court; and such clerks and other officers of courts, whose appointment is not herein provided for, shall be appointed by the several courts, or by the governor, with the consent of the senate, as may be directed by law.

Sec. 14. The special justices, and the assistant justices, and their clerks, in the city of New York, shall be appointed by the common council of the said city; and shall hold their offices for the same term that the justices of the peace in the other counties of this State hold their offices, and shall be removable in like manner.

Sec. 15. All officers heretofore elective by the people shall continue to be elected; and all other officers whose appointment is not provided for by this constitution, and all officers whose offices may be hereafter created by law, shall be elected by the people, or appointed, as may by law be directed.

Sec. 16. Where the duration of any office is not prescribed by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

Article V

Section 1. The court for the trial of impeachments and the correction of errors shall consist of the president of the senate, the senators, the chancellor, and the justices of the supreme court, or the major part of them; but when an impeachment shall be prosecuted against the chancellor, or any justice of the supreme court, the person so impeached shall be suspended from exercising his office, until his acquittal; and when an appeal from a decree in chancery shall be heard, the chancellor shall inform the court of the reasons for his decree, but shall have no voice in the final sentence; and when a writ of error shall be brought, on a judgment of the supreme court, the justices of that court shall assign the reasons for their judgment, but shall not have a voice for its affirmance or reversal.

Sec. 2. The assembly shall have the power of impeaching all civil officers of this State for mal and corrupt conduct in office, and for high crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try and determine the charge in question according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend farther than the removal

from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State; but the party convicted shall be liable to indictment and punishment according to law.

Sec. 3. The chancellor and justices of the supreme court shall hold their offices during good behavior, or until they shall attain the age of sixty years.

Sec. 4. The supreme court shall consist of a chief justice and two justices, any of whom may hold the court.

Sec. 5. The State shall be divided by law into a convenient number of circuits, not less than four nor exceeding eight, subject to alteration by the legislature from time to time as the public good may require; for each of which a circuit judge shall be appointed, in the same manner, and hold his office by the same tenure, as the justices of the supreme court; and who shall possess the powers of a justice of the supreme court at chambers, and in the trial of issues joined in the supreme court, and in courts of oyer and terminer and jail-delivery. And such equity powers may be vested in the said circuit judges, or in the county courts, or in such other subordinate courts as the legislature may by law direct, subject to the appellate jurisdiction of the chancellor.

Sec. 6. Judges of the county courts and recorders of cities shall hold their offices for five years, but may be renewed by the senate, on the recommendation of the governor, for causes to be stated in such recommendation.

Sec. 7. Neither the chancellor nor justices of the supreme court, nor any circuit judge, shall hold any other office or public trust. All votes for any elective office, given by the legislature or the people, for the chancellor or a justice of the supreme court, or circuit judge, during his continuance in his judicial office, shall be void.

Article VI

Members of the legislature and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of New York; and that I will faithfully discharge the duties of the office of ——— according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

Article VII

Section 1. No member of this State shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers.

Sec. 2. The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; and no new court shall be instituted but such as shall proceed according to the course of the common law; except such courts of equity as the legislature is herein authorized to establish.

Sec. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

Sec. 4. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to or capable of holding any civil or military office or place within this State.

Sec. 5. The militia of this State shall at all times hereafter be armed and disciplined and in readiness for service; but all such inhabitants of this State, of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused therefrom by paying to the State an equivalent in money; and the legislature shall provide by law for the collection of such equivalent, to be estimated according to the expense, in time and money, of an ordinary able-bodied militia-man.

Sec. 6. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Sec. 7. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment, and in cases of the militia, when in actual service, and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the legislature,) unless on presentment or indictment of a grand jury; and in every trial on impeachment or indictment, the party accused shall be allowed counsel as in civil actions. No person shall be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

Sec. 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Sec. 9. The assent of two-thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate.

Sec. 10. The proceeds of all lands belonging to this State, except such parts thereof as may be reserved or appropriated to public use

or ceded to the United States, which shall hereafter be sold or disposed of, together with the fund denominated the common-school fund, shall be and remain a perpetual fund, the interest of which shall be inviolably appropriated and applied to the support of common schools throughout this State. Rates of toll, not less than those agreed to by the canal commissioners, and set forth in their report to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, shall be imposed on and collected from all parts of the navigable communications between the great western and northern lakes and the Atlantic Ocean which now are or hereafter shall be made and completed; and the said tolls, together with the duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen,[a] and the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act; and the amount of the revenue, established by the act of the legislature of the thirtieth of March, one thousand eight hundred and twenty, in lieu of the tax upon steamboat passengers, shall be and remain inviolably appropriated and applied to the completion of such navigable communications, and to the payment of the interest and reimbursement of the capital of the money already borrowed, or which hereafter shall be borrowed, to make and complete the same. And neither the rates of toll on the said navigable communications, nor the duties on the manufacture of salt aforesaid, nor the duties on goods sold at auction, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, nor the amount of the revenue, established by the act of March the thirtieth, one thousand eight hundred and twenty, in lieu of the tax upon steamboat passengers shall be reduced or diverted at any time before the full and complete payment of the principal and interest of the money borrowed, or to be borrowed, as aforesaid. And the legislature shall never sell or dispose of the salt-springs belonging to this State, nor the lands contiguous thereto which may be necessary or convenient for their use, nor the said navigable communications, or any part or section thereof, but the same shall be and remain the property of this State.[a]

Sec. 11. No lottery shall hereafter be authorized in this State; and the legislature shall pass laws to prevent the sale of all lottery-tickets within this State, except in lotteries already provided for by law.

Sec. 12. No purchase or contract for the sale of lands in this State, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of or with the Indians in this State, shall be valid, unless made under the authority and with the consent of the legislature.

Sec. 13. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or

[a] See amendment.

altered; and such acts of the legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts or parts thereof as are repugnant to this constitution, are hereby abrogated.

Sec. 14. All grants of land within this State, made by the King of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this State made by the authority of the said King or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the State, or individuals, or bodies-corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

Article VIII

Section 1. Any amendment or amendments to this constitution may be proposed in the senate or assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen; and shall be published for three months previous to the time of making such choice; and if in the legislature next chosen as aforesaid such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislature, voting thereon, such amendment or amendments shall become part of the constitution.

Article IX

Section 1. This constitution shall be in force from the last day of December, in the year one thousand eight hundred and twenty-two. But all those parts of the same which relate to the right of suffrage; the division of the State into senate districts; the number of members of the assembly to be elected, in pursuance of this constitution; the apportionment of members of assembly; the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; the continuance of the members of the present legislature in office until the first day of January, in the year one thousand eight hundred and twenty-three; and the prohibition against authorizing lotteries; the prohibition against appropriating the public moneys or property for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate, without the assent of two-thirds of the members elected

to each branch of the legislature, shall be in force and take effect from the last day of February next. The members of the present legislature shall, on the first Monday of March next, take and subscribe an oath or affirmation to support this constitution, so far as the same shall then be in force. Sheriffs, clerks of counties, and coroners shall be elected at the election hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two, but they shall not enter on the duties of their offices before the first day of January then next following. The commissions of all persons holding civil offices on the last day of December, one thousand eight hundred and twenty-two, shall expire on that day, but the officers then in commission may respectively continue to hold their said offices until new appointments or elections shall take place under this constitution.

Sec. 2. The existing laws relative to the manner of notifying, holding, and conducting elections, making returns, and canvassing votes shall be in force and observed in respect to the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two, so far as the same are applicable. And the present legislature shall pass such other and further laws as may be requisite for the execution of the provisions of this constitution in respect to elections.

Done in convention, at the capitol in the city of Albany, the tenth day of November, in the year one thousand eight hundred and twenty-one, and of the Independence of the United States of America the forty-sixth. In witness whereof we have hereunto subscribed our names.

Daniel D. Tompkins, *President.*

John F. Bacon,
Samuel S. Gardiner,
Secretaries.

AMENDMENTS TO THE CONSTITUTION OF 1821*

(Ratified September 6, 7, 8, 1826)

I. That the people of this State in their several towns shall, at their annual election, and in such manner as the legislature shall direct, elect by ballot their justices of the peace, and the justices so elected in any town shall immediately thereafter meet together, and, in presence of the supervisor and town clerk of the said town, be divided by lot into four classes, of one in each class, and be numbered one, two, three, and four, and the office of number one shall expire at the end of the first year, of number two at the end of the second year, of number three at the end of the third year, and of number four at the end of the fourth year, in order that one justice may thereafter be annually eelcted, and that so much of the seventh section of the fourth article of the constitution of this State as is inconsistent with this amendment be abrogated.

* "Constitution of the State of New York, as adopted in Convention, Oct. 9, 1846, and address of the Convention to the People; together with the Present Constitution. New-York, published by James S. Burnton, 274 Bowery. Albany: From the steam press of Carroll & Cook, Printers to the Convention. 1846."

II. That so much of the first section of the second article of the constitution as prescribes the qualifications of voters, other than persons of color, be, and the same is hereby, abolished, and that the following be substituted in the place thereof: "Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this State one year next preceding any election, and for the last six months a resident of the county where he may offer his vote, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are or hereafter may be elective by the people."

(Ratified 1833)

III. That the duties on the manufacture of salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and by the tenth section of the seventh article of the constitution of this State, may, at any time hereafter, be reduced by an act of the legislature of this State, but shall not, while the same is appropriated and pledged by the said section, be reduced below the sum of six cents upon each and every bushel, and the said duties shall remain inviolably appropriated and applied as is provided by the said tenth section. And that so much of the said tenth section of the seventh article of the constitution of this State as is incinsistent with this amendment be abrogated.

IV. At the end of the tenth section of the fourth article of the said constitution add the following words: "Except in the city of New York, in which city the mayor shall be chosen annually by the electors thereof qualified to vote for the other charter officers of the said city, and at the time of the election of such officers."

(Ratified November, 1835)

V. Whenever a sufficient amount of money shall be collected and safely invested for the reimbursement of such part as may then be unpaid of the money borrowed for the construction of the Erie and Champlain Canals, the tenth section of the seventh article of the constitution of this State, as far as it relates to the amount of duties on the manufacture of salt and the amount of duties on goods sold at auction, shall cease and determine, and thereafter the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the act of the fifteenth of April, one thousand eight hundred and seventeen, and the duties on the manufacture of salt shall be restored to the general fund.

(Ratified November, 1839)

VI. Mayors of the several cities in this State may be elected annually by the male inhabitants entitled to vote for members of the common councils of such cities respectively, in such manner as the legislature shall by law provide, and the legislature may, from time to time, make such provision by law for the election of any one or more such mayors; but until such provision be made by law, such mayors (excepting the mayor of the city of New York) shall be appointed in the manner now provided by the constitution of this State;

and so much of the tenth section of article fourth of the constitution of this State as is inconsistent with this amendment is hereby abrogated.

(Ratified November, 1845)

VII. No property qualification shall be required to render a person eligible to or capable of holding any public office or public trust in this State.

VIII. No judicial officer shall be removed by the joint resolution of the two houses of the legislature, or by the senate, on the recommendation of the governor, unless the cause of such removal shall be entered on the journal of both houses or of the senate, as the case may be, and such officer, against whom the legislature or the senate may be about to proceed, shall be served with notice thereof, accompanied with a copy of the causes alleged for his removal, at least twenty days before the day on which either house shall act thereupon, and shall have an opportunity to be heard in his defence before any question shall be taken upon such removal; and the yeas and nays shall be entered upon the journals of the senate or house, as the case may be.

CONSTITUTION OF NEW YORK—1846 [a] [b]

We the people of the State of New York, grateful to Almighty God for our freedom: in order to secure its blessings, do establish this Constitution.

Article I

Section 1. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

Sec. 2. The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate forever. But a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

Sec. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

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[a] The Constitution as adopted in 1846 verified from "The Constitution of the State of New York, as adopted in Convention, Oct. 9, 1846, New-York: Published by James S. Burnton, 274 Bowery. Albany: From the Steam Press of Carrol & Cook, Printers to the Convention. 1864." 30 pp.

[b] This Constitution was framed by a Convention which met June 1, 1846 and adjourned October 9, 1846. It was submitted to the people in November, 1846, and adopted by a vote of 221,528 to 92,436.

Sec. 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Sec. 5. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel and unusual punishment be inflicted, nor shall witnesses be unreasonably detained.

Sec. 6. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment, and in cases of militia, when in actual service; and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace; and in cases of petit larceny, under the regulation of the Legislature,) unless on presentment or indictment of a grand jury, and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property without due process of law: nor shall private property be taken for public use, without just compensation.

Sec. 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefitted.

Sec. 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Sec. 9. The assent of two-thirds of the members elected to each branch of the Legislature, shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

Sec. 10. No law shall be passed, abridging the right of the people peaceably to assemble and to petition the government, or any department thereof, nor shall any divorce be granted, otherwise than by due judicial proceedings, nor shall any lottery hereafter be authorized or any sale of lottery tickets allowed within this State.

Sec. 11. The People of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people.

Sec. 12. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving however, all rents and

services certain which at any time heretofore have been lawfully created or reserved.

SEC. 13. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners according to the nature of their respective estates.

SEC. 14. No lease or grant of agricultural land, for a longer period than twelve years, hereafter, made in which shall be reserved any rent or service of any kind, shall be valid.

SEC. 15. All fines, quarter sales, or other like restraints upon alienation reserved in any grant of land, hereafter to be made, shall be void.

SEC. 16. No purchase or contract for the sale of lands in this State, made since the fourteenth day of October one thousand seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature.

SEC. 17. Such parts of the common law, and of the acts of the Legislature of the colony of New-York, as together did form the law of the said colony, on the nineteenth day of April one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said colony, and of the Convention of the State of New-York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated; and the Legislature, at its first session after the adoption of this Constitution, shall appoint three commissioners, whose duty it shall be to reduce into a written and systematic code the whole body of the law of this State, or so much and such parts thereof as to the said commissioners shall seem practicable and expedient. And the said commissioners shall specify such alterations and amendments therein as they shall deem proper, and they shall at all times make reports of their proceedings to the Legislature, when called upon to do so; and the Legislature shall pass laws regulating the tenure of office, the filling of vacancies therein, and the compensation of the said commissioners; and shall also provide for the publication of the said code, prior to its being presented to the Legislature for adoption.

SEC. 18. All grants of land within this State, made by the King of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority, or shall impair the obligation of any debts contracted by this State, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of actions, or other proceedings in courts of justice.

Article II

Section 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ten days, and an inhabitant of this State one year next preceding any election, and for the last four months a resident of the county where he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; but such citizen shall have been for thirty days next preceding the election, a resident of the district from which the officer is to be chosen for whom he offers his vote. But no man of color, unless he shall have been for three years a citizen of this State, and for one year next preceding any election shall have been seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and shall have been actually rated and paid a tax thereon, shall be entitled to vote at such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

Sec. 2. Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery, of larceny, or of any infamous crime; and for depriving every person who shall make, or become directly or indirectly interested in any bet or wager depending upon the result of any election from the right to vote at such election.

Sec. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms house, or other asylum, at public expense; nor while confined in any public prison.

Sec. 4. Laws shall be made for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

Sec. 5. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

Article III

Section 1. The legislative power of this State shall be vested in a Senate and Assembly.

Sec. 2. The Senate shall consist of thirty-two members, and the Senators shall be chosen for two years. The Assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

Sec. 3. The State shall be divided into thirty-two districts, to be called Senate districts, each of which shall choose one Senator. The districts shall be numbered from one to thirty-two inclusive.

District number one (1) shall consist of the counties of Suffolk, Richmond and Queens.

District number two (2) shall consist of the county of Kings.

Districts number three (3) number four (4) number five (5) and number six (6) shall consist of the city and county of New-York;

and the board of supervisors of said city and county shall, on or before the first day of May one thousand eight hundred and forty-seven, divide the said city and county into the number of Senate Districts, to which it is entitled, as near as may be of an equal number of inhabitants, excluding aliens and persons of color not taxed, and consisting of convenient and contiguous territory; and no Assembly District shall be divided in the formation of a Senate District. The board of supervisors, when they shall have completed such division, shall cause certificates thereof, stating the number and boundaries of each district and the population thereof, to be filed in the office of the Secretary of State, and of the clerk of the said city and county.

District number seven (7) shall consist of the counties of Westchester, Putnam and Rockland.

District number eight (8) shall consist of the counties of Dutchess and Columbia.

District number nine (9) shall consist of the counties of Orange and Sullivan.

District number ten (10) shall consist of the counties of Ulster, and Greene.

District number eleven (11) shall consist of the counties of Albany and Schenectady.

District number twelve (12) shall consist of the county of Rensselaer.

District number thirteen (13) shall consist of the counties of Washington and Saratoga.

District number fourteen (14) shall consist of the counties of Warren, Essex and Clinton.

District number fifteen (15) shall consist of the counties of St. Lawrence and Franklin.

District number sixteen (16) shall consist of the counties of Herkimer, Hamilton, Fulton and Montgomery.

District number seventeen (17) shall consist of the counties of Schoharie and Delaware.

District number eighteen (18) shall consist of the counties of Otsego and Chenango.

District number nineteen (19) shall consist of the county of Oneida.

District number twenty (20) shall consist of the counties of Madison and Oswego.

District number twenty-one (21) shall consist of the counties of Jefferson and Lewis.

District number twenty-two (22) shall consist of the county of Onondaga.

District number twenty-three (23) shall consist of the counties of Cortland, Broome and Tioga.

District number twenty-four (24) shall consist of the counties of Cayuga and Wayne.

District number twenty-five (25) shall consist of the counties of Tompkins, Seneca and Yates.

District number twenty-six (26) shall consist of the counties of Steuben and Chemung.

District number twenty-seven (27) shall consist of the county of Monroe.

District number twenty-eight (28) shall consist of the counties of Orleans, Genesee and Niagara.

District number twenty-nine (29) shall consist of the counties of Ontario and Livingston.

District number thirty (30) shall consist of the counties of Allegany and Wyoming.

District number thirty-one (31) shall consist of the county of Erie.

District number thirty-two (32) shall consist of the counties of Chautauqua and Cattaraugus.

SEC. 4. An enumeration of the inhabitants of the State shall be taken, under the direction of the Legislature, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the Legislature, at the first session after the return of every enumeration, that each Senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, and persons of color not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a Senate district, except such county shall be equitably entitled to two or more Senators.

SEC. 5. The members of Assembly shall be apportioned among the several counties of this State, by the Legislature, as nearly as may be, according to the number of their respective inhabitants, excluding aliens, and persons of color not taxed, and shall be chosen by single districts.

The several boards of supervisors in such counties of this State, as are now entitled to more than one member of Assembly, shall assemble on the first Tuesday of January next, and divide their respective counties into Assembly districts equal to the number of members of Assembly to which such counties are now severally entitled by law, and shall cause to be filed in the offices of the Secretary of State and the clerks of their respective counties, a description of such Assembly districts, specifying the number of each district and the population thereof, according to the last preceding State enumeration, as near as can be ascertained. Each assembly district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens and persons of color not taxed, and shall consist of convenient and contiguous territory; but no town shall be divided in the formation of Assembly districts.

The Legislature, at its first session after the return of every enumeration, shall re-apportion the members of Assembly among the several counties of this State, in manner aforesaid, and the boards of supervisors in such counties as may be entitled, under such re-apportionment, to more than one member, shall assemble at such time as the Legislature making such re-apportionment shall prescribe, and divide the counties into Assembly districts, in the manner herein directed; and the apportionment and districts so to be made, shall remain unaltered until another enumeration shall be taken under the provisions of the preceding section.

Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the Assembly, and no new county shall be hereafter erected, unless its population shall entitle it to a member.

The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, acording to the ratio, be entitled to a member.

SEC. 6. The members of the Legislature shall receive for their services a sum not exceeding three dollars a day, from the commencement of the session; but such pay shall not exceed in the aggregate three hundred dollars for per diem allowance, except in proceedings for impeachment. The limitation as to the aggregate compensation shall not take effect until the year one thousand eight hundred and forty-eight. When convened in extra session by the Governor, they shall receive three dollars per day. They shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting, on the most usual route. The Speaker of the Assembly shall, in virtue of his office receive an additional compensation equal to one-third of his per diem allowance as a member.

SEC. 7. No member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, during the term for which he shall have been elected; and all such appointments, and all votes given for any such member, for any such office, or appointment, shall be void.

SEC. 8. No person being a member of Congress, or holding any judicial or military office under the United States, shall hold a seat in the Legislature. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

SEC. 9. The elections of Senators and members of Assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

SEC. 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members, shall choose its own officers; and the Senate shall choose a temporary president, when the Lieutenant-Governor shall not attend as president, or shall act as Governor.

SEC. 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

SEC. 12. For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

SEC. 13. Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

SEC. 14. The enacting clause of all bills shall be "The people of the State of New-York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

SEC. 15. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the Legislature, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

Sec. 16. No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

Sec. 17. The Legislature may confer upon the boards of supervisors of the several counties of the State, such further powers of local legislation and administration, as they shall from time to time prescribe.

Article IV

Section 1. The executive power shall be vested in a Governor, who shall hold his office for two years: a Lieutenant-Governor shall be chosen at the same time, and for the same term.

Sec. 2. No person, except a citizen of the United States, shall be eligible to the office of Governor, nor shall any person be eligible to that office, who shall not have attained the age of thirty years, and who shall not have been five years next preceding his election, a resident within this State.

Sec. 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature, at its next annual session, shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor, or Lieutenant-Governor.

Sec. 4. The Governor shall be commander-in-chief of the military and naval forces of the State. He shall have power to convene the Legislature (or the Senate only) on extraordinary occasions. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures, as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall, at stated times, receive for his services a compensation to be established by law, which shall neither be increased nor diminished after his election and during his continuance in office.

Sec. 5. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offences except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulation as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

Sec. 6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and

duties of the said office, resignation or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the State.

Sec. 7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be President of the Senate, but shall only have a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor, until the vacancy be filled, or the disability shall cease.

Sec. 8. The Lieutenant-Governor shall, while acting as such, receive a compensation which shall be fixed by law, and which shall not be increased or diminished during his continuance in office.

Sec. 9. Every bill which shall have passed the Senate and Assembly, shall, before it becomes a law, be presented to the Governor: if he approve, he shall sign it; but if not, he shall return it with his objections to that house, in which it shall have originated; who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of all the members present, it shall become a law, notwithstanding the objections of the Governor. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

Article V

Section 1. The Secretary of State, Comptroller, Treasurer and Attorney-General shall be chosen at a general election, and shall hold their offices for two years. Each of the officers in this Article named (except the Speaker of the Assembly), shall at stated times, during his continuance in office, receive for his services, a compensation, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, to his use, any fees or perquisites of office, or other compensation.

Sec. 2. A State Engineer and Surveyor shall be chosen at a general election, and shall hold his office two years, but no person shall be elected to said office who is not a practical engineer.

Sec. 3. Three Canal Commissioners shall be chosen at the general election which shall be held next after the adoption of this Constitution, one of whom shall hold his office for one year, one for two years, and one for three years. The Commissioners of the Canal Fund

shall meet at the Capitol on the first Monday of January, next after such election, and determine by lot which of said Commissioners shall hold his office for one year, which for two, and which for three years; and there shall be elected annually, thereafter, one Canal Commissioner, who shall hold his office for three years.

Sec. 4. Three Inspectors of State Prisons, shall be elected at the general election which shall be held next after the adoption of this Constitution, one of whom shall hold his office for one year, one for two years, and one for three years. The Governor, Secretary of State, and Comptroller, shall meet at the Capitol on the first Monday of January next succeeding such election, and determine by lot which of said Inspectors shall hold his office for one year, which for two, and which for three years; and there shall be elected annually thereafter one Inspector of State Prisons, who shall hold his office for three years, said Inspectors shall have the charge and superintendence of the State prisons, and shall appoint all the officers therein. All vacancies in the office of such Inspector shall be filled by the Governor, till the next election.

Sec. 5. The Lieutenant-Governer, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor, shall be the Commissioners of the Land-Office.

The Lieutenant-Governor, Secretary of State, Comptroller, Treasurer, and Attorney-General, shall be the Commissioners of the Canal Fund.

The Canal Board shall consist of the Commissioners of the Canal Fund, the State Engineer and Surveyor, and the Canal Commissioners.

Sec. 6. The powers and duties of the respective boards, and of the several offices in this Article mentioned, shall be such as now are or hereafter may be prescribed by law.

Sec. 7. The Treasurer may be suspended from office by the Governor, during the recess of the Legislature, and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a competent person to discharge the duties of the office, during such suspension of the Treasurer.

Sec. 8. All offices for the weighing, gauging, measuring, culling or inspecting any merchandize, produce, manufacture or commodity, whatever, are hereby abolished, and no such office shall hereafter be created by law; but nothing in this section contained, shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls, or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

Article VI

Section 1. The Assembly shall have the power of impeachment, by the vote of a majority of all the members elected. The court for the trial of impeachments, shall be composed of the President of the Senate, the Senators, or a major part of them, and the judges

of the court of appeals, or the major part of them. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office after he shall have been impeached, until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment, according to evidence; and no person shall be convicted, without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment, and punishment according to law.

SEC. 2. There shall be a Court of Appeals, composed of eight judges, of whom four shall be elected by the electors of the State for eight years, and four selected from the class of Justices of the Supreme Court having the shortest time to serve. Provision shall be made by law, for designating one of the number elected, as chief judge, and for selecting such Justices of the Supreme Court, from time to time, and for so classifying those elected, that one shall be elected every second year.

SEC. 3. There shall be a Supreme Court having general jurisdiction in law and equity.

SEC. 4. The State shall be divided into eight judicial districts, of which the city of New-York shall be one; the others to be bounded by county lines and to be compact and equal in population as nearly as may be. There shall be four Justices of the Supreme Court in each district, and as many more in the district composed of the city of New-York, as may from time to time be authorized by law, but not to exceed in the whole such number in proportion to its population, as shall be in conformity with the number of such judges in the residue of the State in proportion to its population. They shall be classified so that one of the justices of each district shall go out of office at the end of every two years. After the expiration of their terms under such classification, the term of their office shall be eight years.

SEC. 5. The Legislature shall have the same powers to alter and regulate the jurisdiction and proceedings in law and equity, as they have heretofore possessed.

SEC. 6. Provision may be made by law for designating from time to time, one or more of the said justices, who is not a judge of the Court of Appeals, to preside at the general terms of the said court to be held in the several districts. Any three or more of the said justices, of whom one of the said justices so designated shall always be one, may hold such general terms. And any one or more of the justices may hold special terms and circuit courts, and any one of them may preside in courts of oyer and terminer in any county.

SEC. 7. The Judges of the Court of Appeals and justices of the Supreme Court shall severally receive at stated times for their services, a compensation to be established by law, which shall not be increased or diminished during their continuance in office.

SEC. 8. They shall not hold any other office or public trust. All votes for either of them, for any elective office (except that of

Justice of the Supreme Court, or judge of the court of appeals), given by the Legislature or the people, shall be void. They shall not exercise any power of appointment to public office. Any male citizen of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this State.

Sec. 9. The classification of the Justices of the Supreme Court; the times and place of holding the terms of the court of appeals, and of the general and special terms of the Supreme Court within the several districts, and the circuit courts and courts of oyer and terminer within the several counties, shall be provided for by law.

Sec. 10. The testimony in equity cases shall be taken in like manner as in cases at law.

Sec. 11. Justices of the Supreme Court and judges of the Court of Appeals, may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to the Assembly and a majority of all the members elected to the Senate, concur therein. All judicial officers, except those mentioned in this section, and except justices of the peace, and judges and justices of inferior courts not of record may be removed by the Senate, on the recommendation of the Governor; but no removal shall be made by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of, shall have been served with a copy of the complaint against him, and shall have had an opportunity of being heard in his defence. On the question of removal, the ayes and noes shall be entered on the journals.

Sec. 12. The judges of the Court of Appeals shall be elected by the electors of the State, and the justices of the Supreme Court by the electors of the several judicial districts, at such times as may be prescribed by law.

Sec. 13. In case the office of any judge of the Court of Appeals, or justice of the Supreme Court, shall become vacant before the expiration of the regular term for which he was elected, the vacancy may be filled by appointment by the Governor, until it shall be supplied at the next general election of judges, when it shall be filled by election for the residue of the unexpired term.

Sec. 14. There shall be elected in each of the counties of this State, except the city and county of New-York, one county judge, who shall hold his office for four years. He shall hold the county court, and perform the duties of the office of surrogate. The county court shall have such jurisdiction in cases arising in justices courts, and in special cases, as the Legislature may prescribe; but shall have no original civil jurisdiction, except in such special cases.

The county judge, with two justices of the peace to be designated according to law, may hold courts of sessions, with such criminal jurisdiction as the Legislature shall prescribe, and perform such other duties as may be required by law.

The county judge shall receive an annual salary, to be fixed by the board of supervisors, which shall be neither increased nor diminished during his continuance in office. The justices of the peace, for services in courts of sessions, shall be paid a per diem allowance out of the county treasury.

In counties having a population exceeding forty thousand, the Legislature may provide for the election of a separate officer to perform the duties of the office of surrogate.

The Legislature may confer equity jurisdiction in special cases upon the county judge.

Inferior local courts, of civil and criminal jurisdiction, may be established by the Legislature in cities; and such courts, except for the cities of New-York and Buffalo, shall have an uniform organization and jurisdiction in such cities.

Sec. 15. The Legislature may, on application of the board of supervisors provide for the election of local officers, not to exceed two in any county, to discharge the duties of county judge and of surrogate, in cases of their inability or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

Sec. 16. The Legislature may reorganize the judicial districts at the first session after the return of every enumeration under this Constitution, in the manner provided for in the fourth section of this article and at no other time; and they may, at such session, increase or diminish the number of districts, but such increase or diminution shall not be more than one district at any one time. Each district shall have four justices of the Supreme Court; but no diminution of the districts shall have the effect to remove a judge from office.

Sec. 17. The electors of the several towns, shall, at their annual town meeting, and in such manner as the Legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace and judges or justices of inferior courts not of record and their clerks may be removed after due notice and an opportunity of being heard in their defence by such county, city or state courts as may be prescribed by law, for causes to be assigned in the order of removal.

Sec. 18. All judicial officers of cities and villages, and all such judicial officers as may be created therein by law, shall be elected at such times and in such manner as the Legislature may direct.

Sec. 19. Clerks of the several counties of this State shall be clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. A clerk for the Court of Appeals, to be ex-officio clerk of the Supreme Court, and to keep his office at the seat of government, shall be chosen by the electors of the State; he shall hold his office for three years, and his compensation shall be fixed by law and paid out of the public Treasury.

Sec. 20. No judicial officer, except justices of the peace shall receive to his own use, any fees or perquisites of office.

Sec. 21. The Legislature may authorize the judgments decrees and decisions of any local inferior court of record of original civil jurisdiction, established in a city, to be removed for review directly into the Court of Appeals.

Sec. 22. The Legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions as it may deem expedient. And all laws and judicial decisions shall be free for publication by any person.

Sec. 23. Tribunals of conciliation may be established, with such powers and duties as may be prescribed by law, but such tribunals shall have no power to render judgment to be obligatory on the parties, except they voluntarily submit their matters in difference and agree to abide the judgment, or assent thereto, in the presence of such tribunal, in such cases as shall be prescribed by law.

Sec. 24. The Legislature at its first session after the adoption of this Constitution, shall provide for the appointment of three commissioners, whose duty it shall be to revise, reform, simplify and abridge the rules and practice, pleadings, forms and proceedings of the courts of record of this State, and to report thereon to the Legislature, subject to their adoption and modification from time to time.

Sec. 25. The Legislature at its first session after the adoption of this Constitution, shall provide for the organization of the Court of Appeals, and for transferring to it the business pending in the Court for the Correction of Errors, and for the allowance of writs of error and appeals to the Court of Appeals, from the judgments and decrees of the present Court of Chancery and Supreme Court, and of the courts that may be organized under this Constitution.

Article VII

Section 1. After paying the expenses of collection, superintendance and ordinary repairs, there shall be appropriated and set apart in each fiscal year, out of the revenues of the State canals, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of one million and three hundred thousand dollars until the first day of June, one thousand eight hundred and fifty-five, and from that time the sum of one million and seven hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the State debt called the canal debt, as it existed at the time first aforesaid, and including three hundred thousand dollars then to be borrowed, until the same shall be wholly paid; and the principal and income of the said sinking fund shall be sacredly applied to that purpose.

Sec. 2. After complying with the provisions of the first section of this article, there shall be appointed and set apart out of the surplus revenues of the State canals, in each fiscal year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of three hundred and fifty thousand dollars, until the time when a sufficient sum shall have been appropriated and set apart, under the said first section, to pay the interest and extinguish the entire principal of the canal debt; and after that period, then the sum of one million and five hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the State debt called the General Fund debt, including the debt for loans of the State credit to rail road companies which have failed to pay the interest thereon, and also the contingent debt on State stocks loaned to incorporated companies which have hitherto paid the interest thereon, whenever and as far as any part thereof may become a charge on the Treasury or General Fund, until the same shall be wholly paid; and the principal and income of the said last mentioned sinking fund shall be sacredly applied to the purpose aforesaid; and

if the payment of any part of the monies to the said sinking fund shall at any time be deferred, by reason of the priority recognized in the first section of this article, the sum so deferred, with quarterly interest thereon, at the then current rate, shall be paid to the last mentioned sinking fund, as soon as it can be done consistently with the just rights of the creditors holding said canal debt.

SEC. 3. After paying the said expenses of superintendance and repairs of the canals, and the sums appropriated by the first and second sections of this Article, there shall be paid out of the surplus revenues of the canals, to the Treasury of the State, on or before the thirtieth day of September, in each year, for the use and benefit of the General Fund, such sum, not exceeding two hundred thousand dollars, as may be required to defray the necessary expenses of the State; and the remainder of the revenues of the said canals shall, in each fiscal year, be applied, in such manner as the Legislature shall direct, to the completion of the Erie Canal enlargement, and the Genesee Valley and Black River canals, until the said canals shall be completed.

If at any time after the period of eight years from the adoption of this Constitution, the revenues of the State, unappropriated by this article, shall not be sufficient to defray the necessary expenses of the government, without continuing or laying a direct tax, the Legislature may, at its discretion, supply the deficiency, in whole or in part, from the surplus revenues of the canals, after complying with the provisions of the first two sections of this article, for paying the interest and extinguishing the principal of the Canal and General Fund debt; but the sum thus appropriated from the surplus revenues of the canals shall not exceed annually three hundred and fifty thousand dollars, including the sum of two hundred thousand dollars, provided for by this section for the expenses of the government, until the General Fund debt shall be extinguished, or until the Erie Canal enlargement and Genessee Valley and Black River Canals shall be completed, and after that debt shall be paid, or the said canals shall be completed, then the sum of six hundred and seventy-two thousand five hundred dollars, or so much thereof as shall be necessary, may be annually appropriated to defray the expenses of the government.

SEC. 4. The claims of the State against any incorporated company to pay the interest and redeem the principal of the stock of the State loaned or advanced to such company, shall be fairly enforced, and not released or compromised; and the moneys arising from such claims shall be set apart and applied as part of the sinking fund provided in the second section of this article. But the time limited for the fulfilment of any condition of any release or compromise heretofore made or provided for, may be extended by law.

SEC. 5. If the sinking funds, or either of them, provided in this article, shall prove insufficient to enable the State, on the credit of such fund, to procure the means to satisfy the claims of the creditors of the State as they become payable, the Legislature shall, by equitable taxes, so increase the revenues of the said funds as to make them, respectively, sufficient perfectly to preserve the public faith. Every contribution or advance to the canals, or their debt, from any source, other than their direct revenues, shall, with quarterly interest, at the

rates then current, be repaid into the Treasury, for the use of the State, out of the canal revenues as soon as it can be done consistently with the just rights of the creditors holding the said canal debt.

Sec. 6. The legislature shall not sell, lease, or otherwise dispose of any of the canals of the State; but they shall remain the property of the State and under its management, forever.

Sec. 7. The Legislature shall never sell or dispose of the salt springs, belonging to this State. The lands contiguous thereto and which may be necessary and convenient for the use of the salt springs, may be sold by authority of law and under the direction of the commissioners of the land office, for the purpose of investing the moneys arising therefrom in other lands alike convenient; but by such sale and purchase the aggregate quantity of these lands shall not be diminished.

Sec. 8. No moneys shall ever be paid out of the Treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

Sec. 9. The credit of the State shall not, in any manner, be given or loaned to, or in aid of any individual association or corporation.

Sec. 10. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts, but such debts, direct and contingent, singly or in the aggregate, shall not at any time, exceed one million of dollars; and the moneys arising from the loans creating such debts, shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

Sec. 11. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

Sec. 12. Except the debts specified in the tenth and eleventh sections of this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by a law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof.

No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it, at such election.

On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

The Legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrepealable, and be annually collected, until the proceeds thereof shall have made the provision herein before specified to pay and discharge the interest and principal of such debt and liability.

The money arising from any loan or stock creating such debt or liability, shall be applied to the work or object specified in the act authorising such debt or liability, or for the repayment of such debt or liability, and for no other purpose whatever.

No such law shall be submitted to be voted on, within three months after its passage, or at any general election, when any other law, or any bill, or any amendment to the Constitution, shall be submitted to be voted for or against.

Sec. 13. Every law which imposes continues or revives a tax, shall distinctly state the tax and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

Sec. 14. On the final passage, in either house of the Legislature, of every act which imposes, continues, or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges, or commutes any claim or demand of the State, the question shall be taken by ayes and noes, which shall be duly entered on the journals, and three-fifths of all the members elected to either house, shall, in all such cases, be necessary to constitute a quorum therein.

Article VIII

Section 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section, may be altered from time to time or repealed.

Sec. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

Sec. 3. The term corporations as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

Sec. 4. The Legislature, shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

Sec. 5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie

payments, by any person, association or corporation issuing bank notes of any description.

Sec. 6. The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

Sec. 7. The stockholders in every corporation and joint-stock association for banking purposes, issuing bank notes or any kind of paper credits circulate as money, after the first day of January, one thousand eight hundred and fifty, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind, contracted after the said first day of January, one thousand eight hundred and fifty.

Sec. 8. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

Sec. 9. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations.

Article IX

Section 1. The capital of the Common School Fund; the capital of the Literature Fund, and the capital of the United States Deposite Fund, shall be respectively preserved inviolate. The revenue of the said Common School Fund shall be applied to the support of common schools; the revenues of the said Literature Fund shall be applied to the support of academies, and the sum of twenty-five thousand dollars of the revenues of the United States Deposite Fund shall each year be appropriated to and made a part of the capital of the said Common School Fund.

Article X

Section 1. Sheriffs, clerks of counties, including the register and clerk of the city and county of New-York, coroners, and district attorneys, shall be chosen, by the electors of the respective counties, once in every three years and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law, to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff.

The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defence.

Sec. 2. All county officers whose election or appointment is not provided for, by this Constitution, shall be elected by the electors of the respective counties, or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not pro-

vided for by this Constitution, shall be elected by the electors, of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

Sec. 3. When the duration of any office, is not provided by this Constitution, it may be declared by law, and if not so declared, such office shall be held, during the pleasure of the authority making the appointment.

Sec. 4. The time of electing all officers named in this article shall be prescribed by law.

Sec. 5. The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

Sec. 6. The political year and legislative term, shall begin on the first day of January; and the Legislature shall every year assemble on the first Tuesday in January, unless a different day shall be appointed by law.

Sec. 7. Provisions shall be made by law for the removal for misconduct or malversation in office of all officers (except judicial) whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal.

Sec. 8. The Legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this Constitution.

Article XI

Section 1. The militia of this State, shall at all times hereafter, be armed and disciplined, and in readiness for service; but all such inhabitants of this State of any religious denomination whatever as from scruples of conscience may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

Sec. 2. Militia officers shall be chosen, or appointed, as follows:—captains, subalterns and non-commissioned officers shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments and separate battalions; brigadier-generals and brigade inspectors by the field officers of their respective brigades; major generals, brigadier generals and commanding officers of regiments or separate battalions, shall appoint the staff officers to their respective divisions, brigades, regiments or separate battalions.

Sec. 3. The Governor shall nominate, and with the consent of the Senate, appoint all major generals, and the commissary general. The adjutant general and other chiefs of staff departments, and the aids-de-camp of the commander-in-chief shall be appointed by the Governor, and their commissions shall expire with the time for which the Governor shall have been elected. The commissary general shall

hold his office for two years. He shall give security for the faithful execution of the duties of his office, in such manner and amount as shall be prescribed by law.

Sec. 4. The Legislature shall, by law, direct the time and manner of electing militia officers, and of certifying their elections to the Governor.

Sec. 5. The commissioned officers of the militia shall be commissioned by the Governor; and no commissioned officer shall be removed from office, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the decision of a court martial, pursuant to law. The present officers of the militia shall hold their commissions subject to removal, as before provided.

Sec. 6. In case the mode of election and appointment of militia officers hereby directed, shall not be found conducive to the improvement of the militia, the Legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house shall concur therein.

Article XII

Section 1. Members of the Legislature and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of New-York; and that I will faithfully discharge the duties of the office of according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

Article XIII

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of Senators, and shall be published for three months previous to the time of making such choice, and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments, shall be agreed to, by a majority, of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the Legislature, voting thereon, such amendment or amendments shall become part of the Constitution.

Sec. 2. At the general election to be held in the year eighteen hundred and sixty-six, and in each twentieth year thereafter, and

also at such time as the Legislature may by law provide, the question, "Shall there be a Convention to revise the Constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the Legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a Convention for such purpose, the Legislature at its next session, shall provide by law for the election of delegates to such Convention.

Article XIV

Section 1. The first election of senators and members of Assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-seven.

The senators and members of Assembly who may be in office on the first day of January, one thousand eight hundred and forty-seven, shall hold their offices until and including the thirty-first day of December following, and no longer.

Sec. 2. The first election of Governor and Lieutenant-Governor under this Constitution, shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-eight; and the Governor and Lieutenant-Governor in office when this Constitution shall take effect, shall hold their respective offices until and including the thirty-first day of December of that year.

Sec. 3. The Secretary of State, Comptroller, Treasurer, Attorney-General, District-Attorney, Surveyor-General, Canal Commissioners, and inspectors of State prisons in office when this Constitution shall take effect, shall hold their respective offices until and including the thirty-first day of December, one thousand eight hundred and forty-seven, and no longer.

Sec. 4. The first election of judges and clerk of the Court of Appeals, justices of the Supreme Court, and county judges, shall take place at such time between the first Tuesday of April and the second Tuesday of June, one thousand eight hundred and forty-seven, as may be prescribed by law. The said courts shall respectively enter upon their duties, on the first Monday of July, next thereafter; but the term of office of said judges, clerk and justices as declared by this Constitution, shall be deemed to commence on the first day of January, one thousand eight hundred and forty-eight.

Sec. 5. On the first Monday of July, one thousand eight hundred and forty-seven, jurisdiction of all suits and proceedings then pending in the present Supreme Court and Court of Chancery, and all suits and proceedings originally commenced and then pending in any court of common pleas, (except in the city and county of New-York), shall become vested in the Supreme Court hereby established. Proceedings pending in courts of common pleas and in suits originally commenced in justices courts, shall be transferred to the county courts provided for in this Constitution, in such manner and form and under such regulations as shall be provided by law. The courts of oyer and terminer hereby established shall, in their respective counties, have jurisdiction, on and after the day last mentioned, of all indictments and proceedings then pending in the present courts of oyer and terminer, and also of all indictments and proceedings then pending in

the present courts of general sessions of the peace, except in the city of New York, and except in cases of which the courts of sessions hereby established may lawfully take cognizance; and of such indictments and proceedings the courts of sessions hereby established shall have jurisdiction on and after the day last mentioned.

Sec. 6. The Chancellor and the present Supreme Court shall, respectively, have power to hear and determine any of such suits and proceedings ready on the first Monday of July, one thousand eight hundred and forty-seven, for hearing or decision, and shall, for their services therein, be entitled to their present rates of compensation until the first day of July, one thousand eight hundred and forty-eight, or until all such suits and proceedings shall be sooner heard and determined. Masters in chancery may continue to exercise the functions of their office in the court of chancery, so long as the Chancellor shall continue to exercise the functions of his office under the provisions of this Constitution.

And the Supreme Court hereby established shall also have power to hear and determine such of said suits and proceedings as may be prescribed by law.

Sec. 7. In case any vacancy shall occur in the office of chancellor or justice of the present Supreme Court, previously to the first day of July, one thousand eight hundred and forty-eight the Governor may nominate, and by and with the advice and consent of the Senate, appoint a proper person to fill such vacancy. Any judge of the Court of Appeals or justice of the Supreme Court, elected under this Constitution, may receive and hold such appointment.

Sec. 8. The offices of Chancellor, justice of the existing Supreme Court, circuit judge, vice-chancellor, assistant vice-chancellor, judge of the existing county courts of each county, Supreme Court commissioner, master in chancery, examiner in chancery, and surrogate, (except as herein otherwise provided,) are abolished from and after the first Monday of July, one thousand eight hundred and forty-seven, (1847.)

Sec. 9. The Chancellor, the justices of the present Supreme Court, and the circuit judges, are hereby declared to be severally eligible to any office at the first election under this Constitution.

Sec. 10. Sheriffs, clerks of counties, (including the register and clerk of the city and county of New-York) and justices of the peace, and coroners, in office, when this Constitution shall take effect, shall hold their respective offices until the expiration of the term for which they were respectively elected.

Sec. 11. Judicial officers in office when this Constitution shall take effect, may continue to receive such fees and perquisites of office as are now authorized by law, until the first day of July, one thousand eight hundred and forty-seven, notwithstanding the provisions of the twentieth section of the sixth article of this Constitution.

Sec. 12. All local courts established in any city or village, including the superior court, common pleas, sessions and surrogate's courts of the city and county of New York shall remain, until otherwise directed by the Legislature, with their present powers and jurisdictions; and the judges of such courts and any clerks thereof in office on the first day of January one thousand eight hundred and forty-seven, shall continue in office until the expiration of their terms of office, or until the Legislature shall otherwise direct.

SEC. 13. This Constitution shall be in force from and including the first day of January, one thousand eight hundred and forty-seven except as is herein otherwise provided.

Done, In Convention, at the Capitol, in the City of Albany, the ninth day of October in the year one thousand eight hundred and forty-six, and of the Independence of the United States of America the seventy-first.

In witness whereof, we have hereunto subscribed our names.

JOHN TRACY,
President, and Delegate from the County of Chenango.

JAMES F. STARBUCK,
H. W. STRONG,
FR. SEGER,
Secretaries.

STATE OF NEW-YORK, *Secretary's Office.*

I have compared the preceding with the original engrossed Constitution deposited in this office on the ninth day of October, 1846, and Do Certify, that the same is a correct transcript therefrom, and of the whole of said original.

Given under my hand and seal of office, at the City of Albany, the tenth day of October, in the year of our Lord one thousand eight hundred and forty-six.

[L. S.]

N. S. BENTON,
Secretary of State.

AMENDMENTS TO CONSTITUTION OF 1846*

ARTICLE II

[a] SECTION 1. Every male citizen of the age of twenty-one years who shall have been a citizen for ten days and an inhabitant of this State one year next preceding an election, and the last four months a resident of the county and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

[a] SEC. 2. No person who shall receive, expect, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute

* The amendments to the Constitution of 1846 verified by "The Constitution of the State of New York. Adopted November 3, 1846. As amended and in force January 1, 1887. Prepared from the original in office of Secretary of State, under direction of Frederick Cook, Secretary of State. Albany: Weed, Parsons and Company, Printers. 1887."

[a] As amended by vote of the people, November 3, 1874.

to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature, at the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, at public expense; nor while confined in any public prison.

[a] SEC. 5. The Assembly shall consist of one hundred and twenty-eight members, elected for one year. The members of Assembly shall be apportioned among the several counties of the State, by the Legislature, as nearly as may be, according to the number of their respective inhabitants, excluding aliens, and shall be chosen by single districts. The Assembly districts shall remain as at present organized, until after the enumeration of the inhabitants of the State, in the year eighteen hundred and seventy-five. The Legislature, at its first session after the return of every enumeration, shall apportion the Members of Assembly among the several counties of the State, in manner aforesaid, and the board of supervisors in such counties as may be entitled under such apportionment to more than one member, except the city and county of New York, and in said city and county the board of aldermen of said city shall assemble at such time as the Legislature making such apportionment shall prescribe, and divide their respective counties into Assembly districts, each of which districts shall consist of convenient and contiguous territory equal to the number of members of Assembly to which such counties shall be entitled, and shall cause to be filed in the offices of the Secretary of State and the clerks of their respective counties, a description of such districts, specifying the number of each district and the population thereof, according to the last preceding enumeration as near as can be ascertained, and the apportionment and districts shall remain unaltered until another enumeration shall be made as herein provided. No town shall be divided in the formation of Assembly districts. Every county heretofore established and separately organized, except

[a] As amended by vote of the people, November 3, 1874.

the county of Hamilton, shall always be entitled to one member of the Assembly, and no new county shall be hereafter erected, unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, be entitled to a member. But the Legislature may abolish the said county of Hamilton, and annex the territory thereof to some other county or counties. Nothing in this section shall prevent division at any time of counties and towns, and the erection of new towns and counties by the Legislature.

[a] Sec. 6. Each member of the Legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting, once in each session, on the most usual route. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

[a] Sec. 7. No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

[a] Sec. 8. No person shall be eligible to the Legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

Article III

[b] Sec. 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.

[b] Sec. 18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

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[a] As amended by vote of the people, November 3, 1874.

[b] Added by vote of the people, November 3, 1874.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the State.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property-owners cannot be obtained, the General Term of the Supreme Court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property-owners.

[a] Sec. 19. The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

[a] Sec. 20. Every law which imposes, continues or revises a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

[a] Sec. 21. On the final passage, in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

[a] Sec. 22. There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members, and elected in such manner, and for such period, as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen thereof.

[a] Sec. 23. The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may from time to time deem expedient.

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[a] Added by vote of the people, November 3, 1874.

[a] SEC. 24. The Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

[a] SEC. 25. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the Legislature by commissioners who have been appointed pursuant to law to revise the statutes.

ARTICLE IV

[b] SECTION 1. The executive power shall be vested in a Governor, who shall hold his office for three years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect shall hold office during the term for which they were elected.

[b] SEC. 2. No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years, next preceding his election, a resident of this State.

[b] SEC. 4. The Governor shall be commander-in-chief of the military and naval forces of the State. He shall have power to convene the Legislature (or the State only) on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

[b] SEC. 8. The Lieutenant-Governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee or perquisite for any duty or service he may be required to perform by the Constitution or by law.

[b] SEC. 9. Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill it shall be sent together with the objections to the other house by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to

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[a] Added by vote of the people, November 3, 1874.
[b] As amended by vote of the people, November 3, 1874.

him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

Article V

[a] Sec. 3. A Superintendent of Public Works shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office until the end of the term of the Governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the Governor, whenever, in his judgment, the public interest shall so require; but in case of the removal of such Superintendent of Public Works from office, the Governor shall file with the Secretary of State a statement of the cause of such removal, and shall report such removal, and the cause thereof, to the Legislature at its next session. The Superintendent of Public Works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the Legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, subject to suspension or removal by the Superintendent of Public Works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant superintendent shall be filled for the remainder of the term for which he was appointed, by the Superintendent of Public Works; but in case of the suspension or removal of any such

[a] As amended by vote of the people, November 7, 1876.

assistant superintendent by him, he shall at once report to the Governor, in writing, the cause of such removal. All other persons employed in the care and management of the canals, except collectors of tolls, and those in the department of the State Engineer and Surveyor, shall be appointed by the Superintendent of Public Works, and be subject to suspension or removal by him. The office of Canal Commissioner is abolished from and after the appointment and qualification of the Superintendent of Public Works, until which time the Canal Commissioners shall continue to discharge their duties as now provided by law. The Superintendent of Public Works shall perform all the duties of the Canal Commissioners, and Board of Canal Commissioners, as now declared by law, until otherwise provided by the Legislature. The Governor, by and with the advice and consent of the Senate, shall have power to fill vacancies in the office of Superintendent of Public Works; if the Senate be not in session, he may grant commissions which shall expire at the end of the next succeeding session of the Senate.

[a] Sec. 4. A Superintedent of State Prisons shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office for five years unless sooner removed; he shall give security in such amount, and with such sureties as shall be required by law for the faithful discharge of his duties; he shall have the superintendence, management and control of State prisons, subject to such laws as now exist or may hereafter be enacted; he shall appoint the agents, wardens, physicians and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the Superintendent. The Comptroller shall appoint the clerks of the prisons. The Superintendent shall have all the powers and perform all the duties not inconsistent herewith, which have heretofore been had and performed by the Inspectors of State Prisons; and from and after the time when such Superintendent of State Prisons shall have been appointed and qualified, the office of Inspector of State Prisons shall be and hereby is abolished. The Governor may remove the Superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defense.

Article VI[a]

Section 1. The Assembly shall have the power of impeachment, by a vote of the majority of all the members elected. The Court for the Trial of Impeachments shall be composed of the President of the Senate, the Senators, or a major part of them, and the Judges of the Court of Appeals, or the major part of them. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment, according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in

[a] As amended by vote of the people, November 7, 1876.

cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust, or profit, under this State; but the party impeachment shall be liable to indictment and punishment according to law.

SEC. 2. There shall be a Court of Appeals, composed of a Chief Judge and six Associate Judges, who shall be chosen by the electors of the State, and shall hold their office for the term of fourteen years from and including the first day of January next after their election. At the first election of Judges, under this Constitution, every elector may vote for the Chief and only four of the Associate Judges. Any five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have the appointment, with the power of removal, of its reporter and clerk, and of such attendants as may be necessary.

SEC. 3. When a vacancy shall occur, otherwise than by expiration of term, in the office of Chief or Associate Judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not, the Governor alone, may appoint to fill such vacancy. If any such appointment of Chief Judge shall be made from among the Associate Judges, a temporary appointment of Associate Judge shall be made in like manner; but in such case, the person appointed Chief Judge shall not be deemed to vacate his office of Associate Judge any longer than until the expiration of his appointment as Chief Judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of Judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

SEC. 4. Upon the organization of the Court of Appeals, under this article, the causes then pending in the present Court of Appeals shall become vested in the Court of Appeals hereby established. Such of said causes as are pending on the first day of January, eighteen hundred and sixty-nine, shall be heard and determined by a Commission, to be composed of five Commissioners of Appeals, four of whom shall be necessary to constitute a quorum; but the Court of Appeals hereby established may order any of said causes to be heard therein. Such Commission shall be composed of the Judges of the present Court of Appeals, elected or appointed thereto, and a fifth Commissioner who shall be appointed by the Governor, by and with the advice and consent of the Senate; or, if the Senate be not in session, by the Governor; but in such case, the appointment shall expire at the end of the next session.

SEC. 5. If any vacancy shall occur in the office of the said Commissioners, it shall be filled by appointment by the Governor by and with the advice and consent of the Senate; or if the Senate is not in session, by the Governor; but in such case, the appointment shall expire at the end of the next session. The Commissioners shall appoint, from their number, a Chief Commissioner; and may appoint and re-

move such attendants as may be necessary. The reporter of the Court of Appeals shall be the reporter of said Commission. The decisions of the Commission shall be certified to, and entered and enforced, as the judgments of the Court of Appeals. The Commission shall continue until the causes committed to it are determined, but not exceeding three years; and all causes then undetermined shall be heard by the Court of Appeals.

Sec. 6. There shall be the existing Supreme Court with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law; and it shall be composed of the Justices now in office, who shall be continued during their respective terms and of their successors. The existing Judicial Districts of the State are continued until changed pursuant to this section. Five of the Justices shall reside in the District in which is the City of New York, and four in each of the other Districts. The Legislature may alter the Districts without increasing the number once after every enumeration under this Constitution of the inhabitants of the State.

Sec. 7. At the first session of the Legislature, after the adoption of this article, and from time to time thereafter as may be necessary, but not oftener than once in five years, provisions shall be made for organizing, in the Supreme Court, not more than four General Terms thereof, each to be composed of a Presiding Justice, and not more than three other Justices, who shall be designated, according to law, from the whole number of Justices. Each Presiding Justice shall continue to act as such during his term of office. Provision shall be made by law for holding the General Terms in each judicial district. Any Justice of the Supreme Court may hold Special Terms and Circuit Courts, and may preside in Courts of Oyer and Terminer, in any county.

Sec. 8. No Judge or Justice shall sit, at a General Term of any court, or in the Court of Appeals, in review of a decision made by him, or by any court of which he was at the time a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and except as herein otherwise provided, the Legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and equity that they have heretofore exercised.

Sec. 9. When a vacancy shall occur, otherwise than by expiration of term, in the office of Justice of the Supreme Court, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until any vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session, the Governor may appoint to fill such vacancy. Any such appointment shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

Sec. 10. The Judges of the Court of Appeals, and the Justices of the Supreme Court, shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the Legislature or the people, shall be void.

Sec. 11. Judges of the Court of Appeals, and Justices of the Supreme Court, may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to each

house concur therein. All judicial officers, except those mentioned in this section, and except Justices of the Peace and Judges and Justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no removal shall be made, by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the charges against him, and shall have had an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal.

Sec. 12. The Superior Court of the City of New York, the Court of Common Pleas for the city and county of New York, the Superior Court of Buffalo, and the City Court of Brooklyn, are continued, with the powers and jurisdiction they now severally have, and such further civil and criminal jurisdiction as may be conferred by law. The Superior Court of New York shall be composed of the six Judges in office at the adoption of this article, and their successors; the Court of Common Pleas of New York, of the three Judges then in office and their successors, and three additional Judges; the Superior Court of Buffalo, of the Judges now in office and their successors; and the City Court of Brooklyn of such number of Judges not exceeding three as may be provided by law. The Judges of said courts in office at the adoption of this article are continued until the expiration of their terms. A Chief Judge shall be appointed by the Judges of each of said courts from their own number, who shall act as such during his official term. Vacancies in the office of the Judges named in this section occurring otherwise than by expiration of term shall be filled in the same manner as vacancies in the Supreme Court. The Legislature may provide for detailing Judges of the Superior Court and Court of Common Pleas of New York to hold Circuits or Special Terms of the Supreme Court in that city as the public interest may require.

Sec. 13. Justices of the Supreme Court shall be chosen by the electors of their respective Judicial Districts. Judges of all the courts mentioned in the last preceding section shall be chosen by the electors of the cities respectively in which the said courts are instituted. The official terms of the said Justices and Judges who shall be elected after the adoption of this article shall be fourteen years from and including the first day of January next after their election. But no person shall hold the office of Justice or Judge of any court longer than until and including the last day of December next after he shall be seventy years of age.

Sec. 14. The Judges and Justices hereinbefore mentioned shall receive for their services a compensation to be established by law, which shall not be diminished during their official terms. Except the Judges of the Court of Appeals and the Justices of the Supreme Court, they shall be paid, and the expenses of their courts defrayed, by the cities or counties in which such courts are instituted, as shall be provided by law.

Sec. 15. The existing County Courts are continued, and the Judges thereof in office at the adoption of this article shall hold their offices until the expiration of their respective terms. Their successors shall be chosen by the electors of the counties, for the term of six years. The County Court shall have the powers and jurisdiction they now

possess, until altered by the Legislature. They shall also have original jurisdiction in all cases where the defendants reside in the county and in which the damages claimed shall not exceed one thousand dollars; and also such appellate jurisdiction as shall be provided by law, subject, however, to such provision as shall be made by law for the removal of causes into the Supreme Court. They shall also have such other original jurisdiction as shall, from time to time, be conferred upon them by the Legislature. The County Judge, with two Justices of the Peace, to be designated according to law, may hold Courts of Sessions, with such criminal jurisdiction as the Legislature shall prescribe, and he shall perform such other duties as may be required by law. His salary, and the salary of the Surrogate when elected as a separate officer, shall be established by law, payable out of the County Treasury, and shall not be diminished during his term of office. The Justices of the Peace shall be paid, for services in Courts of Sessions, a per diem allowance out of the County Treasury. The County Judge shall also be Surrogate of his county; but in counties having a population exceeding forty thousand, the Legislature may provide for the election of a separate officer to be Surrogate, whose term of office shall be the same as that of the County Judge. The County Judge of any county may preside at Courts of Sessions, or hold County Courts, in any other county, except New York and Kings, when requested by the Judge of such other county.

Sec. 16. The Legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of County Judge and of Surrogate, in cases of their inability, or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

Sec. 17. The Legislature shall provide for submitting to the electors of the State, at the general election in the year eighteen hundred and seventy-three, two questions, to be voted upon on separate ballots, as follows: First, "Shall the offices of Chief Justice and Associate Judge of the Court of Appeals, and of Justice of the Supreme Court, be hereafter filled by appointment?"[a] If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but, as vacancies occur, they shall be filled by appointment by the Governor by and with the advice and consent of the Senate; or if the Senate be not in session, by the Governor; but in such case, he shall nominate to the Senate when next convened, and such appointment by the Governor alone shall expire at the end of that session. Second, "Shall the offices of the Judges mentioned in sections twelve and fifteen of article six of the Constitution, be hereafter filled by appointment?"[a] If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but, as vacancies occur, they shall be filled in the manner in this section above provided.

Sec. 18. The electors of the several towns shall, at their annual town meeting, and in such manner as the Legislature may direct, elect Justices of the Peace, whose term of office shall be four years.

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[a] Submitted to vote of the people, November 4, 1873—pursuant to chapter 314, Laws of 1873,—and determined in the negative.

In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the Peace, and Judges or Justices of inferior courts not of record and their clerks, may be removed, after due notice and an opportunity of being heard by such courts as may be prescribed by law, for causes to be assigned in the order of removal. Justices of the Peace and District Court Justices shall be elected in the different cities of this State, in such manner, and with such powers, and for such terms, respectively, as shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of cities, or appointed by some local authorities thereof.

Sec. 19. Inferior local courts of civil and criminal jurisdiction may be established by the Legislature; and except as herein otherwise provided, all judicial officers shall be elected or appointed at such times, and in such manner, as the Legislature may direct.

Sec. 20. Clerks of the several counties shall be Clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The Clerk of the Court of Appeals shall keep his office at the seat of government. His compensation shall be fixed by law and paid out of the public treasury.

Sec. 21. No judicial officer, except Justices of the Peace, shall receive to his own use any fees or perquisites of office; nor shall any Judge of the Court of Appeals, Justice of the Supreme Court, or Judge of a court of record in the cities of New York, Brooklyn or Buffalo, practice as an attorney or counselor in any court of record in this State, or act as referee.

Sec. 22. The Legislature may authorize the judgments, decrees and decisions of any court of record of original civil jurisdiction, established in a city, to be removed for review, directly into the Court of Appeals.

Sec. 23. The Legislature shall provide for the speedy publication of all Statutes, and also for the appointment by the Justices of the Supreme Court designated to hold General Terms, of a reporter of the decisions of that court. All laws and judicial decisions shall be free for publication by any person.

Sec. 24. The first election of Judges of the Court of Appeals, and of the three additional Judges of the Court of Common Pleas for the city and county of New York shall take place on such day, between the first Tuesday of April and the second Tuesday in June next after the adoption of this article, as may be provided by law. The Court of Appeals, the Commissioners of Appeals, and the additional Judges of the said Court of Common Pleas, shall respectively enter upon their dutes on the first Monday of July thereafter.

Sec. 25. Surrogates, Justices of the Peace and local judicial officers provided for in section sixteen, in office when this article shall take effect, shall hold their respective offices until the expiration of their terms.

Sec. 26. Courts of Special Sessions shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law.

Sec. 27. For the relief of Surrogates' Courts, the Legislature may confer upon courts of record, in any county having a population exceding four hundred thousand, the powers and jurisdiction of

Surrogates, with authority to try issues of fact by jury in probate causes.

[a] SEC. 28. The Court of Appeals may order any of the causes, not exceeding five hundred in number, pending in that court at the time of the adoption of this provision, to be heard and determined by the Commissioners of Appeals, and the Legislature may extend the term of service of the Commissioners of Appeals, not exceeding two years.[b]

[c] SEC. 28. The Legislature, at the first session thereof after the adoption of this amendment, shall provide for organizing in the Supreme Court not more than five General Terms thereof; and for the election at the general election next after the adoption of this amendment, by the electors of the judicial districts mentioned in this section, respectively, of not more than two Justices of the Supreme Court in addition to the Justices of that court now in office in the first, fifth, seventh and eighth, and not more than one Justice of that court in the second, third, fourth and sixth judicial districts.[d] The Justices so elected shall be invested with their offices on the first Monday of June next after their election.

ARTICLE VI

[e] SEC. 6. There shall be the existing Supreme Court, with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law; and it shall be composed of the Justices now in office, with one additional Justice, to be elected as hereinafter provided, who shall be continued during their respective terms, and of their successors. The existing judicial districts of the State are continued until changed pursuant to this section.[b] Five of the Justices shall reside in the district in which is the city of New York, and five in the second judicial district and four in each of the other districts.[f] The Legislature may alter the districts, without increasing the number, once after every enumeration, under this Constitution, of the inhabitants of the State.

[g] SEC. 12. The Superior Court in the city of New York, the Court of Common Pleas for the city and county of New York, the Superior Court of Buffalo, and the City Court of Brooklyn, are continued with the powers and jurisdiction they now severally have, and such further

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[a] Section 28 added by vote of the people, November 5, 1872.

Article 6 of the Constitution (except section 28) was framed by delegates elected April 23, 1867, under chapter 194, Laws of 1867, to a Constitutional Convention (convened pursuant to section 2 of article 13 of the Constitution, by vote of the people at the general election held November 6, 1866), which Convention met in the city of Albany June 4, 1867, and adjourned February 28, 1868.

Article 6 (except section 28) was submitted separately to the people, pursuant to chapter 318, Laws of 1869, at the general election held November 2, 1869, and declared ratified and adopted by the Board of State Canvassers, by certificate of determination, dated December 6, 1869, the official vote thereon, as declared, standing, "for the amended judiciary article," 247,240 votes, and "against the amended judiciary article," 240,442 votes.

[b] Term of service of Commissioners of Appeals extended to July 1, 1875, by chapter 3, Laws of 1873.

[c] So in the original. As amended by vote of the people, November 7, 1882.

[d] See chapter 329, Laws of 1883.

[e] As amended by a vote of the people November 4, 1879.

[f] See chapter 241, Laws of 1847, chapter 485, Laws of 1857, and chapter 24, Laws of 1876, for existing judicial districts. See, also, section 28, adopted by people November 7, 1882, increasing number of Justices of the Supreme Court, and chapter 329, Laws of 1883.

[g] See note [a] on p. 2688.

civil and criminal jurisdiction as may be conferred by law. The Superior Court of New York shall be composed of the six Judges in office at the adoption of this article, and their successors; the Court of Common Pleas of New York, of the three Judges then in office, and their successors, and three additional Judges; the Superior Court of Buffalo, of the Judges now in office and their successors; and the City Court of Brooklyn, of such number of Judges, not exceeding three, as may be provided by law. The Judges of said courts, in office at the adoption of this article, are continued until the expiration of their terms. A Chief Judge shall be appointed by the Judges of each of said courts, from their own number, who shall act as such during his official term. Vacancies in the office of the Judges named in this section, occurring otherwise than by expiration of term, shall be filled in the same manner as vacancies in the Supreme Court. The Legislature may provide for detailing Judges of the Superior Court and Court of Common Pleas of New York, to hold Circuits and Special Terms of the Supreme Court in that city, and for detailing Judges of the City Court of Brooklyn to hold Circuits and Special Terms of the Supreme Court in Kings county, as the public interest may require.

[a] SEC. 13. Justices of the Supreme Court shall be chosen by the electors of their respective judicial districts. Judges of all courts mentioned in the last preceding section shall be chosen by the electors of the cities respectively in which said courts are instituted. The official terms of the said Justices and Judges who shall be elected after the adoption of this article, shall be fourteen years from and including the first day of January next after their election. But no

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[a] Sections 12 and 13, amended by vote of the people, November 2, 1880.

"Journal of the Convention of the State of New York, begun and held at the Capitol, in the City of Albany on the 4th Day of June, 1867. Albany: Weed, Parsons & Company; Printers to the Convention. 1867. pp. 1547."

"Proceedings and Debates of the Constitutional Convention of the State of New York, held in 1867 and 1868, in the City of Albany. Reported by Edward F. Underhill, official stenographer, Vols. I, II, III, IV, V. With Index. Albany: Weed, Parsons and Company, Printers to the convention. 1868."

"New York Convention Manual prepared in pursuance of Chapters 194 and 458, of the laws of 1867, under the Direction of Francis C. Barlow, Secretary of State, Thomas Hillhouse, Comptroller, and John H. Martindale, Attorney-General. By Franklin B. Hough. Part I. pp. 586. Constitutions, Part II. pp. 462. Statistics. Albany, N. Y.: Weed, Parsons & Company, Printers. 1867."

"Documents of the Convention of the State of New York, 1867–'68. Vols. I, II, III, IV, V. Nos. 1 to 183 inclusive. Alban: Weed, Parsons and Company, Printers to the Convention. 1868."

"Revision Documents of the Constitutional Convention of the State of New York, 1867–'68. Albany, N. Y.: Weed, Parsons and Co., Printers to the Convention. 1868." pp. 23.

"Reflections on the changes which may seem necessary in the present Constitution of the State of New York. Published by the New York Union League Club, by Francis Lieber, LL. D., Professor of Constitutional Law in the Law School of Columbia College, New York, 1869. pp. 50.

See "Journal of the Constitutional Commission of the State of New York. Begun and Held in the Common Council Chamber, in the City of Albany, on the 4th Day of December, 1872–3. Albany: Weed, Parsons & Co., Printers, 1873, pp. 483. Appendix.

"Concurrent Resolutions proposing Amendments to the Constitution of the State of New York, with Act of the Legislature, prescribing the form of ballot for voting thereon, and manner of submitting the same to the Electors of the State. Published by the New York State Council of Political Reform. Albany, August 18, 1874," pp. 16.

person shall hold the office of Justice or Judge of any court longer than until and including the last day of December next, after he shall be seventy years of age. The compensation of every Judge of the Court of Appeals and of every Justice of the Supreme Court, whose term of office shall be abridged pursuant to this provision, and who shall have served as such Judge or Justice ten years or more, shall be continued during the remainder of the term for which he was elected.

Article VII

[a] Sec. 3. The first and second sections of this article having been fully complied with, no tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals, and the owners and

[a] Sec. 5. There shall annually be imposed and levied a tax, which shall be sufficient to pay the interest and ex-

[a] Sec. 6. The Legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal; but they shall remain the property of the State and under its management forever. All funds that may be derived from any lease, sale or other disposition of any canal shall be applied in payment of the canal debt mentioned in the third section of this article.

[a] Sec. 13. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

[a] Sec. 14. Neither the Legislature, Canal Board, Canal Appraisers, nor any person or persons acting in behalf of the State, shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by lapse of time. The limitation of existing claims shall begin to run from the adoption of this section; but this provision shall not be construed to revive claims already barred by existing statutes, nor to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

Article VIII

[a] Sec. 4. The Legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or

[a] As amended by vote of the people, November 3, 1874.

property of such bank or institution for savings. The legislature shall have no power to pass any act granting any special chartetr for banking purposes; but corporations or associations may be formed for such purposes under general laws.

[a] SEC. 10. Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking. This section shall not, however, prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held, by the State for educational purposes.

[b] SEC. 11. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county containing a city of over one hundred thousand inhabitants, or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of sand bonds at their maturity. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

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[a] As amended by vote of the people, November 3, 1874.

[b] Sections 10 and 11 added by vote of the people, November 3, 1874, and section 11 amended by vote of the people, November 4, 1884.

Article X

[a] Sec. 9. No officer whose salary is fixed by the Constitution shall receive any additonal compensation. Each of the other State officers named in the Constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use any fees or perquisites of office or other compensation.

Article XII [b]

Section 1. Members of the Legislature (and all officers, executive and judicial, except such inferior officers as shall be by law exempted) shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of , according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further sloemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," and no other oath, declaration or test shall be required as a qualification for any office of public trust.

Article XV [c]

Section 1. Any person holding office under the laws of this State, who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, any thing of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

Sec. 2. And person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall

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[a] Section 9 added by vote of the people, November 3, 1874.
[b] As amended by vote of the people, November 3, 1874.
[c] Article 15 added by vote of the people, November 3, 1874.

offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

SEC. 3. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

SEC. 4. Any District Attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge shall be removed from office by the Governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State, within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law.

ARTICLE XVI[a]

SECTION 1. All amendments to the Constitution shall be in force from and including the first day of January succeeding the election at which the same were adopted, except when otherwise provided by such amendments.

Done in Convention, at the Capitol in the city of Albany the ninth day of October in the year one thousand eight hundred and forty-six, and of the Independence of the United States of America the seventy-first.

In witness whereof, we have hereunto subscribed our names.

JOHN TRACY,
President and Delegate from County of Chenango.

JAMES F. STARBUCK,
H. W. STRONG,
FR. SEGER,
Secretaries

VOTE OF THE PEOPLE UPON THE CONSTITUTION AND ITS AMENDMENTS—1845–1886.

Nov. 4, 1845.	For a convention to consider and alter Constitution	213,257
	Against	33,860
Nov. 3, 1846.	For amended Constitution	221,528
	Against	92,436
Feb. 15, 1854.	For amendment of section 3 of article 7, for speedy completion of canals	185,771
	Against	60,526
Nov. 6, 1866.	For a convention to revise Constitution	352,854
	Against	256,364

[a] Article 16 added by vote of the people, November 3, 1874.

Nov. 2, 1869.	For the amended Constitution	223, 935
	Against	290, 456
	For the amended Judiciary article	247, 240
	Against	240, 442
	For a uniform rule of assessment and taxation of real and personal property	183, 812
	Against	272, 260
	For the property qualification for colored men	282, 403
	Against	249, 802
Nov. 5, 1872.	For amendment of article 6, relating to Commission of Appeals	176, 038
	Against	9, 196
Nov. 4, 1873.	For appointment of Judges of Court of Appeals and of Supreme Court	115, 337
	Against	319, 979
	For appointment of Judges of county and certain city courts	110, 725
	Against	319, 660
Nov. 3, 1874.	For amendment of article 2	357, 635
	Against	177, 033
	For amendment of article 3, sections 1 to 8	325, 904
	Against	206, 029
	For amendment of article 3, sections 17 to 25	435, 313
	Against	98, 050
	For amendment of article 4	336, 197
	Against	196, 125
	For amendment of article 7	428, 190
	Against	104, 139
	For amendment of article 8, sections 4 and 11	337, 891
	Against	194, 234
	For amendment of article 8, section 10	336, 237
	Against	195, 047
	For amendment of article 10	335, 548
	Against	194, 333
	For amendment of article 12	352, 514
	Against	179, 365
	For new article 15	351, 693
	Against	177, 923
	For new article 16	446, 883
	Against	85, 758
Nov. 7, 1876.	For amendment of article 5, section 3	533, 153
	Against	81, 832
	For amendment of article 5, section 4	530, 226
	Against	80, 358
Nov. 4, 1879.	For amendment of article 6, section 6	95, 331
	Against	25, 578
Nov. 2, 1880.	For amendment of article 6, sections 12 and 13	221, 903
	Against	111, 225
Nov. 7, 1882.	For amendment of section 3 of article 7	486, 105
	Against	163, 151
	For amendment of article 6	248, 784
	Against	75, 644
Nov. 4, 1884.	For amendment of section 11 of article 8	499, 661
	Against	9, 161
Nov. 2, 1886.	For a convention to revise the Constitution and amend the same	[a]574, 993
	Against	[b]30, 766

[a] Including 218,376 informal votes. [b] Including 3,735 informal votes.

THE CONSTITUTION OF NEW YORK—1894 * [a]

PREAMBLE

We, the people of the State of New York, grateful to Almighty God for our freedom, in order to secure its blessing, do establish this Constitution.

ARTICLE I

Section 1. No member of this State shall be disfranchised, or deprived of any of the rights and privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

[Section 1 of article I of the amended constitution of 1846, without change.]

§ 2. The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

[Section 2 of article I of the amended constitution of 1846, without change.]

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

[Section 3 of article I of the constitution of 1846, without change.]

§ 4. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

[Section 4 of article I of the amended constitution of 1846, without change.]

§ 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

[Section 1 of article V of the amended constitution of 1846, without change.]

§ 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury, and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case

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* The Clerk's Manual of Rules, Forms and Laws for the Regulation of Business in the Senate and Assembly of the State of New York. Published pursuant to section 15 of the legislative law. Lafayette B. Gleason, Clerk of the Senate; A. E. Baxter, Clerk of the Assembly. Albany: The Journal Company, Printers. 1907. 662 pp.

[a] As proposed by the Constitutional Convention, September 29, 1894, at Albany, N. Y., and adopted by the people of the State, November 6, 1894.

to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation.

[Section 6 of article I of the constitution of 1846, without change.]

§ 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited. General laws may be passed permitting the owners or occupants of agricultural lands to construct and maintain for the drainage thereof, necessary drains, ditches and dykes upon the lands of others, under proper restrictions and with just compensation, but no special laws shall be enacted for such purposes.

[Section 7 of article I of the amended constitution of 1846, amended. The last sentence, relating to the drainage of agricultural lands, is new.]

§ 8. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

[Section 8 of article I of amended constitution of 1846, without change.]

§ 9. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; nor shall any lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling hereafter be authorized or allowed within this state; and the Legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.

[Section 10 of article I of the amended constitution of 1846, amended. The part of this section relating to pool-selling, book-making and other kinds of gambling is new.]

§ 10. The people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of this State; and all lands the title to which shall fail, from a defects of heirs, shall revert, or escheat to the people.

[Section 11 of article I of the amended constitution of 1846, without change.]

§ 11. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving however, all rents and services certain which at any time heretofore have been lawfully created or reserved.

[Section 12 of article I of the amended constitution of 1846, without change.]

§ 12. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

[Section 13 of article I of the amended constitution of 1846, without change.]

§ 13. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

[Section 14 of article I of the amended constitution of 1846, without change.]

§ 14. All fines, quarter-sales or other like restraints upon alienation, reserved in any grant of land hereafter to be made, shall be void.

[Section 15 of article I of the amended constitution of 1846, without change.]

§ 15. No purchase or contract for the sale of lands in this State, made since the fourteenth day of October, one thousand seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature.

[Section 16 of article I of the amended constitution of 1846, without change.]

§ 16. Such parts of the common law, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated.

[Section 17 of article I of the amended constitution of 1846, amended, by striking out the part of such section 17 as related to the appointment and duties of the codification commissioners.]

§ 17. All grants of land within this State, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic or corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts, contracted by the State or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

[Section 18 of article I of the amended constitution of 1846, without change.]

§ 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

[This section is new.]

Article II

Section 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to a vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

[Section 1 of article II of the amended constitution of 1846 amended by requiring a citizenship of ninety days, instead of ten, before election.]

§ 2. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or any infamous crime.

[Section 2 of article II of the amended constitution of 1846, amended. The last sentence of the 1846 constitution was as follows: "The legislature of the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime."]

§ 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.

[Section 3 of article II of the amended constitution of 1846 amended by inserting after the word "asylum" the words "or other institution wholly or partly supported," and after the word "expense" the words "or by charity."]

§ 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding state enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

[Section 4 of article II of the amended constitution of 1846 amended by adding all after the word "established."]

§ 5. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.

[Section 5 of article II of the amended constitution of 1846 amended by transposing the words "shall be by ballot" from after the word "citizen" to after the word "chosen," and by adding all after the word "ballot."]

§ 6. All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards of officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the Legislature may direct. Existing laws on this subject shall continue until the Legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections.

[New.]

Article III

Section 1. The legislative power of this State shall be vested in the Senate and Assembly.

[Section 1 of article III of the amended constitution of 1846 amended by changing the word "a" before "senate" to "the." This amendment was not referred to by the revisers, but as the people voted on the "Revised Constitution," it seems to have been effected.]

§ 2. The Senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The Assembly shall consist of one hundred and fifty members, who shall be chosen for one year.

[New, superseding section 2 of article III of the amended constitution of 1846, which provided for a senate of 32 members, and an assembly of 128 members. The provision that the senate shall consist of fifty members, "except as hereinafter provided," refers to the provision in the last paragraph of section 4 of this article.]

§ 3. The state shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive.

District number one (1) shall consist of the counties of Suffolk and Richmond.

District number two (2) shall consist of the county of Queens.

District number three (3) shall consist of that part of the county of Kings comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

District number four (4) shall consist of that part of the county of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

District number five (5) shall consist of that part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the city of Brooklyn which was formerly the town of Gravesend.

District number six (6) shall consist of that part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

District number seven (7) shall consist of that part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

District number eight (8) shall consist of that part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

District number nine (9) shall consist of that part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

District number ten (10) shall consist of that part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the Bowery, Division street, Grand street, and Jackson street, to the East river and thence around the southern end of Manhattan island, to the place of beginning, and also Governor's, Bedloe's and Ellis islands.

District number eleven (11) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the junction of Broadway and Canal street, and running thence along Broadway, Fourth street, the Bowery and Third avenue, St. Mark's place, Avenue A, Seventh street, Avenue B, Clinton street, Rivington street, Norfolk street, Division street, Bowery and Canal street, to the place of beginning.

District number twelve (12) shall consist of that part of the county of New York lying north of districts numbers ten and eleven and within and bounded by a line beginning at Jackson street and the East river, and running thence through Jackson street, Grand street, Division street, Norfolk street, Rivington street, Clinton street, Avenue B, Seventh street, Avenue A, St. Mark's place, Third avenue, East Fourteenth street to the East river, and along the East river, to the place of beginning.

District number thirteen (13) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the Hudson river at the foot of Canal street, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Fourth street, the Bowery and Third avenue, Fourteenth street, Sixth avenue, West Fifteenth street, Seventh avenue, West Nineteenth street, Eighth avenue, West Twentieth street, and the Hudson river, to the place of beginning.

District number fourteen (14) shall consist of that part of the county of New York lying north of districts numbers twelve and thirteen, and within and bounded by a line beginning at East Fourteenth street and the East river, and running thence along East Fourteenth street, Irving place, East Nineteenth street, Third avenue, East Twenty-third street, Lexington avenue, East Fifty-third street, Third avenue, East Fifty-second street, and the East river, to the place of beginning.

District number fifteen (15) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at the junction of West Fourteenth street and Sixth avenue, and running thence along Sixth avenue, West Fifteenth street, Seventh avenue, West Fortieth street, Eighth avenue, and the transverse road across Central park at Ninety-seventh street, Fifth avenue, East Ninety-sixth street, Lexington avenue, East Twenty-third street, Third avenue, East Nineteenth street, Irving place and Fourteenth street, to the place of beginning.

District number sixteen 16) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at Seventh avenue and West Nineteenth street, and running thence along West Nineteenth street, Eighth avenue, West Twentieth street, the Hudson river, West Forty-sixth street, Tenth avenue, West Forty-third street, Eighth avenue, West Fortieth street, and Seventh avenue, to the place of beginning.

District number seventeen (17) shall consist of that part of the county of New York lying north of district number sixteen, and within and bounded by a line beginning at the junction of Eighth avenue and West Forty-third street, and running thence along West Forty-third street, Tenth avenue, West Forty-sixth street, the Hudson river, West Eighty-ninth street, Tenth or Amsterdam avenue, West Eighty-sixth street, Ninth or Columbus avenue, West Eighty-first street and Eighth avenue, to the place of beginning.

District number eighteen (18) shall consist of that part of the county of New York lying north of district number fourteen, and within and bounded by a line beginning at the junction of East Fifty-second street and the East river, and running thence along East Fifty-second street, Third avenue, East Fifty-third street, Lexington avenue, East Eighty-fourth street, Second avenue, East Eighty-third street and the East river, to the place of beginning; and also Blackwell's island.

District number nineteen (19) shall consist of that part of the county of New York lying north of district number seventeen, and within and bounded by a line beginning at West Eighty-ninth street

and the Hudson river, and running thence along the Hudson river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue, East One Hundred and Twenty-ninth street, Fourth or Park avenue, East One Hundred and Tenth street, Fifth avenue, the transverse road across Central park at Ninety-seventh street, Eighth avenue, West Eighty-first street, Ninth or Columbus avenue, West Eighty-sixth street, Tenth or Amsterdam avenue and West Eighty-ninth street, to the place of beginning.

District number twenty (20) shall consist of that part of the county of New York lying north of districts numbers eighteen and fifteen, and within and bounded by a line beginning at East Eighty-third street and the East river, running thence through East Eighty-third street, Second avenue, East Eighty-fourth street, Lexington avenue, East Ninety-sixth street, Fifth avenue, East One Hundred and Tenth street, Fourth or Park avenue, East One Hundred and Nineteenth street to the Harlem river, and along the Harlem and East rivers to the place of beginning; and also Randall's island and Ward's island.

All the above districts in the county of New York bounded upon or along the boundary waters of the county, shall be deemed to extend to the county line.

District number twenty-one (21) shall consist of that part of the county of New York lying north of districts numbers nineteen and twenty, within and bounded by a line beginning at East One Hundred and Nineteenth street and the Harlem river, and running thence along East One Hundred and Nineteenth street, Fourth or Park avenue, One Hundred and Twenty-ninth street, Fifth avenue and the Harlem river to the place of beginning, and all that part of the county of New York not hereinbefore described.

District number twenty-two (22) shall consist of the county of Westchester.

District number twenty-three (23) shall consist of the counties of Orange and Rockland.

District number twenty-four (24) shall consist of the counties of Dutchess, Columbia and Putnam.

District number twenty-five (25) shall consist of the counties of Ulster and Greene.

District number twenty-six (26) shall consist of the counties of Delaware, Chenango and Sullivan.

District number twenty-seven (27) shall consist of the counties of Montgomery, Fulton, Hamilton and Schoharie.

District number twenty-eight (28) shall consist of the counties of Saratoga, Schnectady and Washington.

District number twenty-nine (29) shall consist of the county of Albany.

District number thirty (30) shall consist of the county of Rensselaer.

District number thirty-one (31) shall consist of the counties of Clinton, Essex and Warren.

District number thirty-two (32) shall consist of the counties of St. Lawrence and Franklin.

District number thirty-three (33) shall consist of the counties of Otsego and Herkimer.

District number thirty-four (34) shall consist of the county of Oneida.

District number thirty-five (35) shall consist of the counties of Jefferson and Lewis.

District number thirty-six (36) shall consist of the county of Onondaga.

District number thirty-seven (37) shall consist of the counties of Oswego and Madison.

District number thirty-eight (38) shall consist of the counties of Broome, Cortland and Tioga.

District number thirty-nine (39) shall consist of the counties of Cayuga and Seneca.

District number forty (40) shall consist of the counties of Chemung, Tompkins and Schuyler.

District number forty-one (41) shall consist of the counties of Steuben and Yates.

District number forty-two (42) shall consist of the counties of Ontario and Wayne.

District number forty-three (43) shall consist of that part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

District number forty-four (44) shall consist of that part of the county of Monroe comprising the towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth and twentieth wards of the city of Rochester, as at present constituted.

District number forty-five (45) shall consist of the counties of Niagara, Genesee and Orleans.

District number forty-six (46) shall consist of the counties of Allegany, Livingston and Wyoming.

District number forty-seven (47) shall consist of that part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, as at present constituted.

District number forty-eight (48) shall consist of that part of the county of Erie comprising the fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo as at present constituted.

District number forty-nine (49) shall consist of that part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo, as at present constituted; and all the remainder of the said county of Erie not hereinbefore described.

District number fifty (50) shall consist of the counties of Chautauqua and Cattaraugus.

[New, superseding the apportionment made by laws 1892, chap. 397.]

§ 4. An enumeration of the inhabitants of this State shall be taken under the direction of the Secretary of State, during the months of

May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the Legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall, at all times, consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein adjoining such district. Counties, towns or blocks of which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one-third of all the senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

The ratio for apportioning the senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

[New, superseding section 4 of article III of the amended constitution of 1846.]

§ 5. The members of the Assembly shall be chosen by single districts and shall be apportioned by the Legislature at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of Assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the Legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitants of the State, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the

number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders on the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens.

Until after the next enumeration, members of the Assembly shall be apportioned to the several counties as follows: Albany county, four members; Allegany county, one member; Broome county, two members; Cattaraugus county, two members; Cayuga county, two members; Chautauqua county, two members; Chemung county, one member; Chenango county, one member; Clinton county, one member; Columbia county, one member; Cortland county, one member; Delaware county, one member; Dutchess county, two members; Erie county, eight members; Essex county, one member; Franklin county, one member; Fulton and Hamilton counties, one member; Genesee county, one member; Greene county, one member; Herkimer county, one member; Jefferson county, two members; Kings county, twenty-one members; Lewis county, one member; Livingston county, one member; Madison county, one member; Monroe county, four members; Montgomery county, one member; New York county, thirty-five members; Niagara county, two members; Oneida county, three members; Onondaga county, four members; Ontario county, one member; Orange county, two members; Orleans county, one member; Oswego county, two members; Otsego county, one member; Putnam county, one member; Queens county, three members; Rensselaer county, three members; Richmond county, one member; Rockland county, one member; St. Lawrence county, two members; Saratoga county, one member; Schenectady county, one member; Schoharie county, one member; Schuyler county, one member; Seneca county, one member; Steuben county, two members; Suffolk county, two members; Sullivan county, one member; Tioga county, one member; Tompkins county, one member; Ulster county, two members; Warren county, one member; Washington county, one member; Wayne county, one member; Westchester county, three members; Wyoming county, one member, and Yates county, one member.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday of June, one thousand eight hundred and ninety-five, and at such times as the Legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment, equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the Secretary of State and the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the

county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of the said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district, unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the state enumeration of one thousand eight hundred and ninety-two, so far as may be, instead of blocks. Nothing in this section shall prevent the division, at any time, of counties and towns, and the erection of new towns by the Legislature.

An apportionment by the Legislature, or other body, shall be subject to review by the Supreme Court, at the suit of any citizen, under such reasonable regulations as the Legislature may prescribe; and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same.

[New, superseding section 5 of article III of the amended constitution of 1846, and the assembly apportionment made by Laws of 1892, chapter 397.]

§ 6. Each member of the Legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, once in each session, on the most usual route, Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine members, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

[Section 6 of article III of the amended constitution of 1846, without change.]

§ 7. No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

[Section 7 of article III of the amended constitution of 1846, without change.]

§ 8. No person shall be eligible to the Legislature, who at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

[Section 8 of article III of the amended constitution of 1846, without change.]

§ 9. The elections of senators and members of assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

[Section 9 of article III of the amended constitution of 1846, without change.]

§ 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the Senate shall choose a temporary president to preside in case of the absence or impeachment of the Lieutenant-Governor, or when he shall refuse to act as president, or shall act as Governor.

[Section 10 of article III of the amended constitution of 1846, amended by providing that the temporary president shall preside in the case of impeachment of the lieutenant-governor or when he shall refuse to act.]

§ 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

[Section 11 of article III of the amended constitution of 1846, without change.]

§ 12. For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

[Section 12 of article III of the amended constitution of 1846, without change.]

§ 13. Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

[Section 13 of article III of the amended constitution of 1846, without change.]

§ 14. The enacting clause of all bills shall be "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

[Section 14 of article III of the amended constitution of 1846, without change.]

§ 15. No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the Governor, or the acting Governor, shall have certified to the necessity of its immediate passage, under his hand and the seal of the State; nor shall any bill be passed or become a law, except by the

assent of a majority of the members elected to each branch of the Legislature; and upon the last reading of a bill, no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the yeas and nays entered on the journal.

[Section 15 of article III of the amended constitution of 1846 amended. The section formerly read: "No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the legislature, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal."]

§ 16. No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

[Section 16 of article III of the amended constitution of 1846, without change.]

§ 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act.

[Section 17 of article III of the amended constitution of 1846, without change.]
[As to what are private and local bills, see § 16, ante, and cases cited.]

§ 18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentages or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Granting to any persons, association, firm or corporation, an exemption from taxation on real or personal property.

[Amended by vote of the people, Nov. 5, 1901.]

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the state.

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment, may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except

upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of, that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the Appellate Division of the Supreme Court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

[Section 18 of article III of the amended constitution of 1846 amended by changing the words "general term of the supreme court, in the district" in the last paragraph to "appellate division of the supreme court, in the department."]

§ 19. The legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

[Section 19 of article III of the amended constitution of 1846, without change.]

§ 20. The assent of two-thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

[Section 9 of article I of the amended constitution of 1846, without change.]

§ 21. No money shall ever be paid out of the treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

[Section 8 of article VII of the amended constitution of 1846, without change.]

§ 22. No provision or enactment shall be embraced in the annual appropriation or supply bill, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation.

[New.]

§ 23. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the legislature by commissioners who have been appointed pursuant to law to revise the statutes.

[Section 25 of article III of the amended constitution of 1846, without change.]

§ 24. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

[Section 20 of article III of the amended constitution of 1846, without change.]

§ 25. On the final passage, in either house of the Legislature, or any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public

or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

[Section 21 of article III of the amended constitution of 1846, without change.]

§ 26. There shall be in each county, except in a county wholly included in a city, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city.

[Section 22 of article III of the amended constitution of 1846, as amended and adopted November 7, 1899.]

§ 27. The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may, from time to time, deem expedient.

[Section 23 of article III of the amended constitution of 1846, without change.]

§ 28. The Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

[Section 24 of article III of the amended constitution of 1846, without change.]

§ 29. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

[New.]

Article IV

Section 1. The executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six,

and their successors shall be chosen at the general election in that year.

[Section 1 of article IV of the amended constitution of 1846, amended by changing the term of office of the governor and lieutenant-governor from three to two years.]

§ 2. No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this State.

[Section 2 of article IV of the amended constitution of 1846, without change.]

§ 3. The Governor and Lieutenant Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

[Section 3 of article IV of the amended constitution of 1846, without change.]

§ 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the Legislature, or the Senate only, on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to *it* as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

[Section 4 of article IV of the amended constitution of 1846, amended by a change of the word "them" to "it," referring to the legislature, in the fourth sentence.]

§ 5. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

[Section 5 of article IV of the amended constitution of 1846, without change.]

§ 6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State, in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

[Section 6 of article IV of the amended constitution of 1846, without change.]

§ 7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be president of the Senate, but shall have only a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled or the disability shall cease; and if the President of the Senate for any of the above causes shall become incapable of performing the duties pertaining to the office of Governor, the Speaker of the Assembly shall act as Governor until the vacancy be filled or the disability shall cease.

[Section 7 of article IV of the amended constitution of 1846, amended by adding the provision conferring upon the speaker of the assembly the right of succession to the governorship.]

§ 8. The Lieutenant-Governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee or perquisite, for any duty or service he may be required to perform by the Constitution or by law.

[Section 8 of article IV of the amended constitution of 1846, without change.]

§ 9. Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented to the Governor contain several

items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If on reconsideration one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

[Section 9 of article IV of the amended constitution of 1846, without change.]

Article V

Section 1. The Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be chosen at a general election, at the times and places of electing the Governor and Lieutenant-Governor, and shall hold their offices for two years, except as provided in section two of this article. Each of the officers in this article named, excepting the Speaker of the Assembly, shall, at stated times during his continuance in office, receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive to his use any fees or perquisites of office or other compensation. No person shall be elected to the office of State Engineer and Surveyor who is not a practical civil engineer.

[Sections 1 and 2 of article V of the amended constitution of 1846, consolidated without change.]

§ 2. The first election of the Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor, pursuant to this article, shall be held in the year one thousand eight hundred and ninety-five, and their terms of office shall begin on the first day of January following, and shall be for three years. At the general election in the year one thousand eight hundred and ninety-eight, and every two years thereafter, their successors shall be chosen for the term of two years.

[New.]

§ 3. A superintendent of public works shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office until the end of the term of the Governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, he shall make the

rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the Governor whenever, in his judgment, the public interest shall so require; but in case of the removal of such Superintendent of Public Works from office, the Governor shall file with the Secretary of State a statement of the cause of such removal, and shall report such removal and the cause thereof to the Legislature at its next session. The Superintendent of Public Works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the Legislature, and who shall receive for their services a compensation to be fixed by law. They hold their office for three years, subject to suspension or removal by the Superintendent of Public Works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant superintendent shall be filled for the remainder of the term for which he was appointed, by the Superintendent of Public Works; but in case of the suspension or removal of any such assistant superintendent by him, he shall at once report to the Governor, in writing, the cause of such removal. All other persons employed in the care and management of the canals, except collectors of tolls, and those in the department of the State Engineer and Surveyor, shall be appointed by the Superintendent of Public Works, and be subject to suspension or removal by him. The Superintendent of Public Works shall perform all the duties of the former Canal Commissioners and Board of Canal Commissioners, as now declared by law, until otherwise provided by the Legislature. The Governor, by and with the advice and consent of the Senate, shall have power to fill vacancies in the office of Superintendent of Public Works; if the Senate be not in session, he may grant commissions which shall expire at the end of the next succeeding session of the Senate.

[Section 3 of article V of the amended constitution of 1846, amended, by striking from such section the sentence abolishing the office of canal commissioner.]

§ 4. A Superintendent of State Prisons shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office for five years, unless sooner removed; he shall give security in such amount, and with such sureties as shall be required by law for the faithful discharge of his duties; he shall have the superintendence, management and control of State prisons, subject to such laws as now exist or may hereafter be enacted; he shall appoint the agents, wardens, physicians and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the Superintendent. The Comptroller shall appoint the clerks of the prisons. The Superintendent shall have all the powers and perform all the duties not inconsistent herewith, which were formerly had and performed by the Inspectors of State Prisons. The Governor may remove the Superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defense.

[Section 4 of article V of the amended constitution of 1846, amended. The words "were formerly" in the next section to the last are new, taking the place of the words "have heretofore been." The sentence relating to the abolishing of the office of inspector of state prisons is omitted.]

§ 5. The Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be the commissioners of the land office. The Lieutenant-Governor, Secretary of State, Comptroller, Treasurer and Attorney-General shall be the commissioners of the canal fund. The canal board shall consist of the commissioners of the canal fund, the State Engineer and Surveyor and the Superintendent of Public Works.

[Section 5 of article V of the amended constitution of 1846, amended by striking out the words "canal commissioners" and inserting in place thereof the words "superintendent of public works," to conform with section 3 of article V, ante.]

§ 6. The powers and duties of the respective boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

[Section 6 of article V of the amended constitution of 1846, without change.]

§ 7. The Treasurer may be suspended from office by the Governor, during the recess of the Legislature, and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a competent person to discharge the duties of the office during such suspension of the Treasurer.

[Section 7 of article V of the amended constitution of 1846, without change.]

§ 8. All offices for the weighing, gauging, measuring, culling or inspecting any merchandise, produce, manufacture or commodity whatever, are hereby abolished; and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls or purchases or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

[Section 8 of article V of the amended constitution of 1846, without change.]

§ 9. Appointments and promotions in the civil service of the State, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive; provided, however, that honorably discharged soldiers and sailors from the army and navy of the United States in the late civil war, who are citizens and residents of this State, shall be entitled to preference in appointment and promotion without regard to their standing on any list from which such appointment or promotion may be made. Laws shall be made to provide for the enforcement of this section.

[New.]

[The following article is a substitute for article VI of the amended constitution of 1846, and the notes at the end of the following sections will only refer to similar provisions in the sections of such article.]

Article VI

Section 1. The Supreme Court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law not inconsistent with this article. The existing judicial districts of the State are continued until changed as hereinafter provided. The Supreme Court shall consist of the Justices now in office, and of the Judges transferred thereto by the fifth section of this article, all of whom shall continue to be Justices of the Supreme Court during their respective terms, and of twelve additional Justices who shall reside in and be chosen by the electors of, the several existing judicial districts, three in the first district, three in the second, and one in each of the other districts; and of their successors. The successors of said justices shall be chosen by the electors of their respective judicial districts. The Legislature may alter the judicial districts once after every enumeration under the Constitution, of the inhabitants of the State, and thereupon reapportion the Justices to be thereafter elected in the districts so altered. The legislature may from time to time increase the number of justices in any judicial district except that the number of justices in the first and second district or in any of the districts into which the second district may be divided, shall not be increased to exceed one justice for each eighty thousand, or fraction over forty thousand of the population thereof, as shown by the last state, or federal census or enumeration, and except that the number of justices in any other district shall not be increased to exceed one justice for each sixty thousand or fraction over thirty-five thousand of the population thereof as shown by the last state or federal census or enumeration. The legislature may erect out of the second judicial district as now constituted, another judicial district and apportion the justices in office between the districts, and provide for the election of additional justices in the new district not exceeding the limit herein provided. [Amended by vote of People, Nov. 7, 1905.]

§ 2. The Legislature shall divide the State into four judicial departments. The first department shall consist of the county of New York; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be. Once every ten years the Legislature may alter the judicial departments, but without increasing the number thereof. There shall be an appellate division of the Supreme Court, consisting of seven justices in the first department, and of five justices in each of the other departments. In each department four shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five justices shall sit in any case. From all the justices elected to the Supreme Court the Governor shall designate those who shall constitute the appellate division in each department; and he shall designate the presiding justice thereof, who shall act as such during his term of office, and shall be a resident of the department. The other justices shall be designated for terms of five years or the unexpired portions of their respective terms of office, if less than five years. From time to time as the terms of such designations expire, or vacancies occur, he shall make new designations. A majority of the justices so designated to sit in the appellate division, in each department shall be

residents of the department. He may also make temporary designations in case of the absence or inability to act of any justice in the appellate division, or in case the presiding justice of any appellate division shall certify to him that one or more additional justices are needed for the speedy disposition of the business before it. Whenever the appellate division in any department shall be unable to dispose of its business within a reasonable time, a majority of the presiding justices of the several departments at a meeting called by the presiding justice of the department in arrears may transfer any pending appeals from such department to any other department for hearing and determination. No justice of the appellate division shall, within the department to which he may be designated to perform the duties of an appellate justice, exercise any of the powers of a justice of the Supreme Court, other than those of a justice out of court, and those pertaining to the appellate division or to the hearing and decision of motions submitted by consent of counsel, but any justice, when not actually engaged in performing the duties of such appellate justice in the department to which he is designated, may hold any term of the supreme court and exercise any of the powers of a justice of the supreme court in any county or judicial district in any other department of the state. From and after the last day of December, eighteen hundred and ninety-five, the appellate division shall have the jurisdiction now exercised by the Supreme Court at its general terms and by the general terms of the Court of Common Pleas for the city and county of New York, the Superior Court of the city of New York, the Superior Court of Buffalo and the city of Brooklyn, and such additional jurisdiction as may be conferred by the Legislature. It shall have power to appoint and remove a reporter. The justices of the appellate division in each department shall have power to fix the times and places for holding special terms therein, and to assign the justices in the departments to hold such terms; or to make rules therefor. [Amended by vote of People, Nov. 7, 1905.]

[Amended and adopted November 7, 1899. The appellate division is a substitute for and has the jurisdiction of the former general term. See amended constitution of 1846, article VI, sections 7 and 28, and L. 1883, chap. 329, R. S., 8th ed., p. 291.]

§ 3. No Judge or Justice shall sit in the Appellate Division or in the Court of Appeals in review of a decision made by him or by any court of which he was at the time a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and, except as herein otherwise provided, the Legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and in equity that it has heretofore exercised.

[Section 8 of article VI of the amended constitution of 1846, amended ante.]

§ 4. The official terms of the Justices of the Supreme Court shall be fourteen years from and including the first day of January next after their election. When a vacancy shall occur otherwise than by expiration of term in the office of Justice of the Supreme Court the same shall be filled for a full term, at the next general election, happening not less than three months after such vacancy occurs; and, until the vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or

if not in session the Governor, may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

[The first sentence of this section relating to length of term is in section 13 of article VI of the amended constitution of 1846. The remainder of the section is in substance the same as section 9 of article VI of the amended constitution of 1846.]

§ 5. The Superior Court of the city of New York, the Court of Common Pleas for the city and county of New York, the Superior Court of Buffalo, and the City Court of Brooklyn, are abolished from and after the first day of January, one thousand eight hundred and ninety-six, and thereupon the seals, records, papers and documents of or belonging to such courts, shall be deposited in the offices of the clerks of the several counties in which said courts now exist; and all actions and proceedings then pending in such courts shall be transferred to the Supreme Court for hearing and determination. The Judges of said courts in office on the first day of January, one thousand eight hundred and ninety-six, shall, for the remainder of the term for which they were elected or appointed, be Justices of the Supreme Court; but they shall sit only in the counties in which they were elected or appointed. Their salaries shall be paid by the said counties respectively, and shall be the same as the salaries of the other Justices of the Supreme Court residing in the same counties. Their successors shall be elected as Justices of the Supreme Court by the electors of the judicial districts in which they respectively reside.

The jurisdiction now exercised by the several courts hereby abolished, shall be vested in the Supreme Court. Appeals from inferior and local courts now heard in the Court of Common Pleas for the city and county of New York and the Superior Court of Buffalo, shall be heard in the Supreme Court in such manner and by such Justice or Justices as the Appellate Division in the respective departments which include New York and Buffalo shall direct, unless otherwise provided by the Legislature.

[This section is new. See §§ 12, 13 of article VI of the amended constitution of 1846.]

§ 6. Circuit Courts and Courts of Oyer and Terminer are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All their jurisdiction shall thereupon be vested in the Supreme Court, and all actions and proceedings then pending in such courts shall be transferred to the Supreme Court for hearing and determination. Any Justice of the Supreme Court, except as otherwise provided in this article, may hold court in any county.

[This section is new.]

§ 7. It shall consist of the chief judge and associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the State. The official terms of the chief judge and associate judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants. Whenever and as often as a majority of the

judges of the court of appeals shall certify to the Governor that said court is unable, by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the Governor shall designate not more than four justices of the Supreme Court to serve as associate judges of Court of Appeals. The justices so designated shall be relieved from their duties as justices of the Supreme Court and shall serve as associate judges of the Court of Appeals until the causes undisposed of in said court are reduced to two hundred, when they shall return to the Supreme Court. The Governor may designate justices of the Supreme Court to fill vacancies. No justice shall serve as associate judge of the Court of Appeals except while holding the office of Justice of the Supreme Court, and not more than seven judges shall sit in any case.

[Section 2 of article VI of the amended constitution of 1846, amended and adopted November 7, 1899.]

§ 8. When a vacancy shall occur otherwise than by expiration of term, in the office of Chief or Associate Judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the Governor, by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session the Governor, may fill such vacancy by appointment. If any such appointment of Chief Judge shall be made from among the Associate Judges, a temporary appointment of Associate Judge shall be made in like manner; but in such case, the person appointed Chief Judge shall not be deemed to vacate his office of Associate Judge any longer than until the expiration of his appointment as Chief Judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of Judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

[Section 3 of article VI of the amended constitution of 1846, amended by a change in language.]

§ 9. After the last day of December, one thousand eight hundred and ninety-five, the jurisdiction of the Court of Appeals, except where the judgment is of death, shall be limited to the review of questions of law. No unanimous decision of the Appellate Division of the Supreme Court that there is evidence supporting or tending to sustain a finding of fact or a verdict not directed by the court, shall be reviewed by the Court of Appeals. Except where the judgment is of death, appeals may be taken, as of right, to said court only from judgment or orders entered upon decisions of the Appellate Division of the Supreme Court, finally determining actions or special proceedings, and from orders granting new trials on exceptions, where the appellants stipulate that upon affirmance judgment absolute shall be rendered against them. The Appellate Division in any department may, however, allow an appeal upon any question of law which, in its opinion, ought to be reviewed by the Court of Appeals.

The Legislature may further restrict the jurisdiction of the Court of Appeals and the right of appeal thereto, but the right to appeal shall not depend upon the amount involved.

The provisions of this section shall not apply to orders made or judgments rendered by any General Term before the last day of December, one thousand eight hundred and ninety-five, but appeals therefrom may be taken under existing provisions of law.

[This section is mostly new.]

§ 10. The Judges of the Court of Appeals and the Justices of the Supreme Court shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the Legislature or the people, shall be void.

[Section 10 of article VI of the amended constitution of 1846, without change.]

§ 11. Judges of the Court of Appeals and Justices of the Supreme Court may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace and judges or justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

[Section 11 of article VI of the amended constitution of 1846 amended.]

§ 12. The Judges and Justices hereinbefore mentioned shall receive for their services a compensation established by law, which shall not be increased or diminished during their official terms, except as provided in section five of this article. No person shall hold the office of Judge or Justice of any court longer than until and including the last day of December next after he shall be seventy years of age. No judge or justice elected after the first day of January, one thousand eight hundred and ninety-four, shall be entitled to receive any compensation after the last day of December next after he shall be seventy years of age; but the compensation of every Judge of the Court of Appeals or Justice of the Supreme Court elected prior to the first day of January, one thousand eight hundred and ninety-four, whose term of office has been, or whose present term of office shall be, so abridged, and who shall have served as such Judge or Justice ten years or more, shall be continued during the remainder of the term for which he was elected; but any such Judge or Justice may, with his consent, be assigned by the Governor, from time to time, to any duty in the Supreme Court while his compensation is so continued.

[The first sentence of this section is the first sentence of section 14 of article VI of the amended constitution of 1846, with amendment. The sentence relating to age limitation is a re-enactment of the same provision contained in section 13 of article 6 of the amended constitution of 1846. The provisions relating to compensation and assignment to duty in the supreme court after the expiration of the age limitation are new.]

§ 13. The Assembly shall have the power of impeachment, by a majority vote of all the members elected. The court for the trial of impeachments shall be composed of the President of the Senate, the Senators or the major part of them, and the Judges of the Court of

Appeals, or the major part of them. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

[Section 1 of article VI of the amended constitution of 1846 amended.]

§ 14. The existing County Courts are continued, and the Judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be two County Judges and the additional County Judge shall be chosen at the next general election held after the adoption of this article. The successors of the several County Judges shall be chosen by the electors of the counties for the term of six years. County Courts shall have the powers and jurisdiction they now possess, and also original jurisdiction in actions for the recovery of money only, where the defendants reside in the county, and in which the complaint demands judgment for a sum not exceeding two thousand dollars. The Legislature may hereafter enlarge or restrict the jurisdiction of the County Courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only, in which the sum demanded exceeds two thousand dollars, or in which any person not a resident of the county is a defendant.

Courts of Sessions, except in the county of New York, are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All the jurisdiction of the Court of Sessions in each county, except the county of New York, shall thereupon be vested in the County Court thereof, and all actions and proceedings then pending in such Courts of Sessions shall be transferred to said County Courts for hearing and determination. Every County Judge shall perform such duties as may be required by law. His salary shall be established by law, payable out of the county treasury. A County Judge of any county may hold County Courts in any other county when requested by the judge of such other county.

[Some of the provisions of this section are taken from section 15 of article VI of the amended constitution of 1846. The jurisdiction is changed so that the limit is now two thousand dollars instead of one thousand, and courts of sessions are abolished and their jurisdiction conferred upon the county courts.]

§ 15. The existing Surrogates' Courts are continued, and the Surrogates now in office shall hold their offices until the expiration of their terms. Their successors shall be chosen by the electors of the respective counties, and their terms of office shall be six years, except in the county of New York, where they shall continue to be fourteen years. Surrogates and Surrogates' Courts shall have the jurisdiction and powers which the Surrogates and existing Surrogates' Courts

now possess, until otherwise provided by the Legislature. The County Judge shall be Surrogate of his county, except where a separate Surrogate has been or shall be elected. In counties having a population exceeding forty thousand, wherein there is no separate Surrogate, the Legislature may provide for the election of a separate officer to be Surrogate, whose term of office shall be six years. When the Surrogate shall be elected as a separate officer his salary shall be established by law, payable out of the county treasury. No County Judge or Surrogate shall hold office longer than until and including the last day of December next after he shall be seventy years of age. Vacancies occurring in the office of County Judge or Surrogate shall be filled in the same manner as like vacancies occurring in the Supreme Court. The compensation of any County Judge or Surrogate shall not be increased or diminished during his term of office. For the relief of Surrogates' Courts the Legislature may confer upon the Supreme Court in any county having a population exceeding four hundred thousand, the powers and jurisdiction of Surrogates, with authority to try issues of fact in probate cases.

[Some of the provisions of this section are contained in section 15 of article VI of the amended constitution of 1846.]

§ 16. The Legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of County Judge and of Surrogate, in cases of their inability or of a vacancy, and in such other cases as may be provided by law, and to exercise such other powers in special cases as are or may be provided by law.

[Section 16 of article VI of the amended constitution of 1846, amended.]

§ 17. The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the Legislature may direct, elect Justices of the Peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of the full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the Peace and judges or justices of inferior courts not of record, and their clerks may be removed for cause, after due notice and an opportunity of being heard, by such courts as are or may be prescribed by law. Justices of the Peace and District Court Justices may be elected in the different cities of this State in such manner, and with such powers, and for such terms, respectively, as are or shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of such cities, or appointed by the local authorities thereof.

[Section 18 of article VI of the amended constitution of 1846, amended.]

§ 18. Inferior local courts of civil and criminal jurisdiction may be established by the Legislature, but no inferior local court hereafter created shall be a court of record. The Legislature shall not hereafter confer upon any inferior or local courts of its creation, any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon County Courts by or under this article. Except as herein otherwise provided, all judicial officers shall be elected or

appointed at such times and in such manner as the Legislature may direct.

[Section 19 of article VI of the amended constitution of 1846, amended. The provisions that no such courts shall be courts of record or possess equity jurisdiction are new.]

§ 19. Clerks of the several counties shall be clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The Justices of the Appellate Division in each department shall have power to appoint and to remove a clerk, who shall keep his office at a place to be designated by said Justices. The Clerk of the Court of Appeals shall keep his office at the seat of government. The Clerk of the Court of Appeals and the Clerk of the Appellate Division shall receive compensation to be established by law and paid out of the public treasury.

[Section 20 or article VI of the amended constitution of 1846, amended. The clerk of appellate division is a new office.]

§ 20. No judicial officer, except Justices of the Peace, shall receive to his own use any fees or perquisites of office; nor shall any Judge of the Court of Appeals, or Justice of the Supreme Court, or any County Judge or Surrogate hereafter elected in a county having a population exceeding one hundred and twenty thousand, practice as an attorney or counselor in any court of record of this State, or act as referee. The Legislature may impose a similar prohibition upon County Judges and Surrogates in other counties. No one shall be eligible to the office of Judge of the Court of Appeals, Justice of the Supreme Court, or, except in the county of Hamilton, to the office of County Judge or Surrogate, who is not an attorney and counselor of this State.

[This section contains the provisions of section 21 of article VI of the amended constitution of 1846. The remainder of the section is new.]

§ 21. The Legislature shall provide for the speedy publication of all statutes, and shall regulate the reporting of the decisions of the courts; but all laws and judicial decisions shall be free for publication by any person.

[Section 23 of article VI of the amended constitution of 1846, amended.]

§ 22. Justices of the Peace and other local judicial officers provided for in sections seventeen and eighteen, in office when this article takes effect, shall hold their offices until the expiration of their respective terms.

[Section 25 of article VI of the amended constitution of 1846, amended.]

§ 23. Courts of Special Sessions shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law.

[Section 26 of article VI of the amended constitution of 1846, without change.]

Article VII

Section 1. The credit of the State shall not in any manner be given or loaned to or in aid of any individual, association or corporation.

[Section 9 of article VII of the amended constitution of 1846, without change.]

§ 2. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts; but such debts,

directly or contingent, singly or in the aggregate, shall not at any time exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

[Section 10 of article VII of the amended constitution of 1846, without change.]

§ 3. In addition to the above limited power to contract debts, the State may contract debts to repel invasions, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

[Section 11 of article VII of the amended constitution of 1846, without change.]

§ 4. Except the debts specified in sections two and three of this article, no debts shall be hereafter contracted by or in behalf of this State, unless such debt shall be authorized by a law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within fifty years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election have been submitted to the people, and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either house of the legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?" The legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted in pursuance of such law, shall remain in force and be irrepealable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability, or for the payment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on, within three months after its passage or at any general election when any other law, or any bill shall be submitted to be voted for or against. The legislature may provide for the issue of bonds of the state to run for a period not exceeding fifty years in lieu of bonds heretofore authorized but not issued and shall impose and provide for the collection of a direct annual tax for the payment of the same as hereinbefore required. When any sinking fund created under this section shall equal in amount the debt for which it was created, no further direct tax shall be levied on account of said sinking fund and the legislature shall reduce the tax to an

amount equal to the accruing interest on such debt. [Amended by vote of People, Nov. 7, 1905.]

[Section 2 of article VII of the amended constitution of 1846, amended by striking the words "the tenth and eleventh sections" and inserting the words "sections two and three."]

§ 5. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

[Section 13 of article VII of the amended constitution of 1846, without change.]

§ 6. Neither the Legislature, canal board, nor any person or persons acting in behalf of the State, shall audit, allow or pay any claim which, as between citizens of the State, would be barred by lapse of time. This provision shall not be construed to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claim duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

[Section 14 of article VII of the amended constitution of 1846, amended by striking out certain provisions probably deemed obsolete.]

§ 7. The lands of the State, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.

§ 8. The Legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal; but they shall remain the property of the State and under its management forever. The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street. All funds that may be derived from any lease, sale or other disposition of any canal shall be applied to the improvement, superintendence or repair of the remaining portions of the canals.

[Section 6 of article VII of the amended constitution of 1846, amended.]

§ 9. No tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals, and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The Legislature shall annually, by equitable taxes, make provision for the expenses of the superintendence and repairs of the canals. All contracts for work or materials on the canals shall be made with the persons who shall offer to do or provide the same at the lowest price, with adequate security for their performance. No extra compensation shall be made to any contractor; but, if, from any unforeseen cause, the terms of any contract

shall prove to be unjust and oppressive, the canal board may, upon the application of the contractor, cancel such contract.

[Section 2 of article VII of the amended constitution of 1846, amended by striking out certain obsolete provisions relating to the "canal debt sinking fund."]

§ 10. The canals may be improved in such manner as the Legislature shall provide by law. A debt may be authorized for that purpose in the mode prescribed by section four of this article, or the cost of such improvement may be defrayed by the appropriation of funds from the state treasury, or by equitable annual tax.

[New.]

Section 11. The legislature may appropriate out of any funds in the treasury, moneys to pay the accruing interest and principal of any debt heretofore or hereafter created, or any part thereof and may set apart in each fiscal year, moneys in the state treasury as a sinking fund to pay the interest as it falls due and to pay and discharge the principal of any debt heretofore or hereafter created under section four of article seven of the constitution until the same shall be wholly paid, and the principal and income of such sinking fund shall be applied to the purpose for which said sinking fund is created and to no other purpose whatever; and, in the event such moneys so set apart in any fiscal year be sufficient to provide such sinking fund, a direct anual tax for such year need not be imposed and collected, as required by the provisions of said section four of article seven, or of any law enacted in pursuance thereof. [Adopted by vote of People, Nov. 7, 1905.]

§ 12. A debt or debts of the state may be authorized by law for the improvement of highways. Such highways shall be determined under general laws, which shall also provide for the equitable apportionment thereof among the counties. The aggregate of the debts authorized by this section shall not at any one time exceed the sum of fifty millions of dollars. The payment of the annual interest on such debt and the creation of a sinking fund of at least two per centum per annum to discharge the principal at maturity shall be provided by general laws whose force and effect shall not be diminished during the existence of any debt created thereunder. The legislature may by general laws require the county or town or both to pay to the sinking fund the proportionate part of the cost of any such highway within the boundaries of such county or town and the proportionate part of the interest thereon, but no county shall at any time for any highway be required to pay more than thirty-five hundredths of the cost of such highway, and no town more than fifteen hundredths. None of the provisions of the fourth section of this article shall apply to debts for the improvement of highways hereby authorized. [Adopted by vote of People, Nov. 7, 1905.]

Article VIII

Section 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general

laws and special acts passed pursuant to this section may be altered from time to time or repealed.

[Section 1 of article VIII of the amended constitution of 1846, without change.]

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

[Section 2 of article VIII of the amended constitution of 1846, without change.]

§ 3. The term corporation as used in this section shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

[Section 3 of article VIII of the amended constitution of 1846, without change.]

§ 4. The Legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of power, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

[Section 4 of article VIII of the amended constitution of 1846, without change.]

§ 5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation, issuing bank notes of any description.

[Section 5 of article VIII of the amended constitution of 1846, without change.]

§ 6. The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

[Section 7 of article VIII of the amended constitution of 1846, without change.]

§ 7. The stockholders of every corporation and joint-stock association for banking purposes, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind.

[Section 7 of article VIII of the amended constitution of 1846, amended.]
(See Barnes v. Arnold, 23 Misc. Rep. 197.) (1898.)

§ 8. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

[Section 8 of article VIII of the amended constitution of 1846, without change.]

§ 9. Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking. This section shall not, however, prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held, by the State for educational purposes.

[Section 10 of article VIII of the amended constitution of 1846, without change.]

§ 10. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city or town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as now may exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted; except that debts incurred by the city of New York after the first day of January, nineteen hundred and four, to provide for the supply of water shall not be so included. Whenever the boundaries of any city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the

debt of the county, heretofore existing, shall not, for the purposes of this section, be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt. [Amended by vote of People, Nov. 7, 1905.]

[Section 11 of article VIII of the amended constitution of 1846, with the following changes: (1) Extending the limitation of indebtedness to all cities and counties; (2) providing that certificates or bonds issued in anticipation of the collection of taxes, not retired within five years, water bonds, and debts incurred by a part of a city shall be included in ascertaining the power to contract further indebtedness; and (3) providing that the power of a county to contract a debt shall cease when the boundaries of the county and city shall become co-terminus.]

[Section 11 of article VIII of the amended constitution of 1846, amended.]

§ 11. The Legislature shall provide for a state board of charities, which shall visit and inspect all institutions, whether state, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation of either of the commissions hereinafter mentioned, but including all reformatories except those in which adult males convicted of felony shall be confined; a state commission in lunacy which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a state commission of prisons which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors.

[New.]

§ 12. The members of the said board and of the said commissions shall be appointed by the Governor, by and with the advice and consent of the Senate; and any member may be removed from office by the Governor for cause, an opportunity having been given him to be heard in his defense.

[New.]

§ 13. Existing laws relating to institutions referred to in the foregoing sections and to their supervision and inspection, in so far as such laws are not inconsistent with the provisions of the Constitution, shall remain in force until amended or repealed by the Legislature. The visitation and inspection herein provided for shall not be exclusive of other visitation and inspection now authorized by law.

[New.]

§ 14. Nothing in this Constitution contained shall prevent the Legislature from making such provision and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper; or prevent any county, city, town or village from providing for the care, support, maintenance and secular education of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under public or private control. Payments by

counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required by the Legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the state board of charities. Such rules shall be subject to the control of the Legislature by general laws.

[New.]

§ 15. Commissioners of the state board of charities and commissioners of the state commission in lunacy, now holding office, shall be continued in office for the term for which they were appointed, respectively, unless the Legislature shall otherwise provide. The Legislature may confer upon the commissions and upon the board mentioned in the foregoing sections any additional powers that are not inconsistent with other provisions of the Constitution.

[New.]

Article IX

Section 1. The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

[New.]

§ 2. The corporation created in the year one thousand seven hundred and eighty-four, under the name of The Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised by not less than nine regents.

[New.]

§ 3. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of the common schools; the revenue of the literature fund shall be applied to the support of academies; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.

[Section 1 of article IX of the amended constitution of 1846, without change.]

§ 4. Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.

[New.]

Article X

Section 1. Sheriffs, clerks of counties, district attorneys and registers in counties having registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the Legislature shall direct. Sheriffs shall hold no other office and be ineligible for the next term after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense.

[Section 1 of article X of the amended constitution of 1846, amended. The reference to "coroners" is omitted; therefore, that office ceases to be a constitutional one and may be abolished by the legislature. The provision that in counties whose boundaries are the same as cities, these officers shall be elected for two or four years as the legislature shall direct, is new.]

§ 2. All county officers whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

[Section 2 of article X of the amended constitution of 1846, without change.]

§ 3. When the duration of any office is not provided by this Constitution it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

[Section 3 of article X of the amended constitution of 1846, without change.]

§ 4. The time of electing all officers named in this article shall be prescribed by law.

[Section 4 of article X of the amended constitution of 1846, without change.]

§ 5. The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

[Section 5 of article X of the amended constitution of 1846, without change.]

§ 6. The political year and legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Wednesday in January.

[Section 6 of article X of the amended constitution of 1846, amended. The time of the assembling of the legislature is changed and made absolute.]

§ 7. Provision shall be made by law for the removal for misconduct or malversation in office of all officers, except judicial, whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal.

[Section 7 of article X of the amended constitution of 1846, without change.]

§ 8. The Legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this constitution.

[Section 8 of article X of the amended constitution of 1846, without change.]

§ 9. No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other state officers named in the Constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use any fees or perquisites of office as other compensation.

[Section 9 of article X of the amended constitution of 1846, without change.]

Article XI

Section 1. All able-bodied male citizens between the ages of eighteen and forty-five years, who are residents of the State, shall constitute the militia, subject, however, to such exemptions as are now, or may be hereafter created by the laws of the United States, or by the Legislature of this State.

[Section 1 of article XI of the amended constitution of 1846, amended.]

§ 2. The Legislature may provide for the enlistment into the active force of such other persons as may make application to be so enlisted.

[This provision is not contained in the amended constitution of 1846, although this power was impliedly granted therein.]

§ 3. The militia shall be organized and divided into such land and naval, and active and reserve forces as the Legislature may deem proper, provided however that there shall be maintained at all times a force of not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service. And it shall be the duty of the Legislature at each session to make sufficient appropriation for the maintenance thereof.

[New in terms.]

§ 4. The Governor shall appoint the chiefs of the several staff departments, his aides-de-camp and military secretary, all of whom shall hold office during his pleasure, their commissions to expire with the term for which the Governor shall have been elected; he shall

also nominate, and with the consent of the Senate appoint, all major-generals.

[The substance of this section is contained in section 3 of article XI of the amended constitution of 1846. A portion of such section is omitted.]

§ 5. All other commissioned and noncommissioned officers shall be chosen or appointed in such manner as the Legislature may deem most conducive to the improvement of the militia, provided, however, that no law shall be passed changing the existing mode of election and appointment unless two-thirds of the members present in each house shall concur therein.

[This section is a substitute for sections 4 and 6 of article XI of the amended constitution of 1846.]

§ 6. The commissioned officers shall be commissioned by the Governor as commander-in-chief. No commissioned officer shall be removed from office during the term for which he shall have been appointed or elected, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the sentence of a court-martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of six months or more.

[Section 5 of article XI of the amended constitution of 1846, amended. The principal change is the removal of commissioned officers upon the findings of an examining board or for absence without leave.]

Article XII

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the state or by any county, city, town, village or other civil division of the state, or by any contractor or subcontractor performing work, labor or services for the state, or for any county, city, town, village or other civil divisions thereof. [Amended by vote of People, Nov. 7, 1905.]

[Section 9 of article VIII of the amended constitution of 1846, without change.]

§ 2. All cities are classified according to the latest state enumeration, as from time to time made, as follows: The first class includes all cities having a population of two hundred and fifty thousand, or more; the second class, all cities having a population of fifty thousand and less than two hundred and fifty thousand; the third class, all other cities. Laws relating to the property, affairs of government of cities, and the several departments thereof, are divided into general and special city laws; general city laws are those which relate to all the cities of one or more classes; special city laws are those which relate to a single city, or to less than all the cities of a class. Special city laws shall not be passed except in conformity with the provisions of this section. After any bill for a special city law, relating to a city, has been passed by both branches of the Legislature, the house in which it originated shall immediately transmit a certified copy

thereof to the mayor of such city, and within fifteen days thereafter the mayor shall return such bill to the house from which it was sent, or if the session of the Legislature at which such bill was passed has terminated, to the Governor, with the mayor's certificate thereon, stating whether the city has or has not accepted the same. In every city of the first class, the mayor, and in every other city, the mayor and the legislative body thereof concurrently, shall act for such city as to such bill; but the Legislature may provide for the concurrence of the legislative body in cities of the first class. The Legislature shall provide for a public notice and opportunity for a public hearing concerning any such bill in every city to which it relates, before action thereon. Such a bill, if it relates to more than one city, shall be transmitted to the mayor of each city to which it relates, and shall not be deemed accepted unless accepted as herein provided, by every such city. Whenever any such bill is accepted as herein provided, it shall be subject as are other bills, to the action of the Governor. Whenever, during the session at which it was passed, any such bill is returned without the acceptance of the city or cities to which it relates, or within such fifteen days is not returned, it may nevertheless again be passed by both branches of the legislature, and it shall then be subject as are other bills, to the action of the Governor. In every special city law which has been accepted by the city or cities to which it relates, the title shall be followed by the words "accepted by the city," or "cities," as the case may be; in every such law which is passed without such acceptance, by the words "passed without the acceptance of the city," or "cities," as the case may be.

[New.]

§ 3. All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers elected in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. The terms of office of all such officers elected before the first day of January, one thousand eight hundred and ninety-five, whose successors have not then been elected, which under existing laws would expire with an even-numbered year, or in an odd-numbered year and before the end thereof, are extended to and including the last day of December next following the time when such terms would otherwise expire; the terms of office of all such officers, which under existing laws would expire in an even-numbered year, and before the end thereof, are abridged so as to expire at the end of the preceding year. This section shall not apply to any city of the third class, or to elections, of any judicial officer, except judges and justices of inferior local courts.

[New.]

Article XIII

Section 1. Members of the Legislature, and all officers executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly

swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute any money, or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," and no other oath, declaration or test shall be required as a qualification for any office of public trust.

[Section 1 of article XII of the amended constitution of 1846, without change.]

§ 2. Any person holding office under the laws of this State who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, anything of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

[Section 1 of article XV of the amended constitution of 1846, without change.]

§ 3. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

[Section 2 of article XV of the amended constitution of 1846, without change.]

§ 4. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

[Section 3 of article XV of the amended constitution of 1846, without change.]

§ 5. No public officer, or person elected or appointed to a public office, under the laws of this State, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the Attorney-General. Any corporation, or officer or agent thereof, who shall offer

or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation, giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

[New.]

§ 6. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the Governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law.

[Section 4 of article XV of the amended constitution of 1846, without change.]

Article XIV

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, and the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice; and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people for approval in such manner and at such times as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the Constitution from and after the first day of January next after such approval.

[Section 1 of article XIII of the amended constitution of 1846, amended.]

§ 2. At the general election to be held in the year one thousand nine hundred and sixteen, and every twentieth year thereafter, and also at such times as the Legislature may by law provide, the question, "Shall there be a convention to revise the Constitution and amend the same?" shall be decided by the electors of the State; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the electors of every senate district of the State, as then organized, shall elect three delegates at the next ensuing general election at which members of the Assembly shall be chosen, and the electors of the State voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall con-

vene at the capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been completed. Every delegate shall receive for his services the same compensation and the same mileage as shall then be annually payable to the members of the Assembly. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the Constitution shall be submitted for approval to the electors as hereinafter provided, unless by the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal to be kept. The convention shall have the power to appoint such officers, employés and assistants as it may deem necessary, and fix their compensation and to provide for the printing of its documents, journal and proceedings. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, by death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the State at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendments, in the manner provided in the last preceding section, such constitution or constitutional amendment, shall go into effect on the first day of January next after such approval.

[The part of this section relating to the calling of future conventions is substantially the same as section 2 of article XIII of the amended constitution of 1846. The remainder of the section is new.]

§ 3. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the Legislature, coincidently submitted to the people for approval at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election, shall, if approved, be deemed to supersede the amendment so proposed by the legislature.

[New.]

Article XV

Section 1. This Constitution shall be in force from and including the first day of January, one thousand eight hundred and ninety-five, except as herein otherwise provided.

Done in Convention at the Capitol in the city of Albany, the twenty-ninth day of September, in the year one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and nineteenth.

In witness whereof, we have hereunto subscribed our names.

Joseph Hodges Choate,
President and Delegate-at-Large.

Charles Elliott Fitch,
Secretary.

Schedule Showing Sources of Sections of the New York State Constitution of 1894.

Constitution of 1894.		Constitution of 1846, amended.	
Art. I, § 1	Art.	I, § 1.	
I, 2		I, 2.	
I, 3		I, 3.	
I, 4		I, 4.	
I, 5		I, 5.	
I, 6		I, 6.	
I, 7		I, 7, amended.	
I, 8		I, 8.	
I, 9		I, 10, amended.	
I, 10		I, 11.	
I, 11		I, 12.	
I, 12		I, 13.	
I, 13		I, 14.	
I, 14		I, 15.	
I, 15		I, 16.	
I, 16		I, 17, amended.	
I, 17		I, 18.	
I, 18	New.		
II, 1	Art.	II, 1, amended.	
II, 2		II, 2, amended in language.	
II, 3		II, 3, amended.	
II, 4		II, 4, amended.	
II, 5		II, 5, amended.	
II, 6	New.		
III, 1	Art.	III, 1.	
III, 2	New.	Superseding art.	III, § 2.
III, 3	New.	"	III, 3.
III, 4	New.	"	III, 4.
III, 5	New.	"	III, 5.
III, 6	Art.	III, 6.	
III, 7		III, 7.	
III, 8		III, 8.	
III, 9		III, 9.	
III, 10		III, 10, amended.	
III, 11		III, 11.	
III, 12		III, 12.	
III, 13		III, 13.	
III, 14		III, 14.	
III, 15		III, 15, amended.	
III, 16		III, 16.	
III, 17		III, 17.	
III, 18		III, 18, amended in language.	
III, 19		III, 19.	
III, 20		I, 9.	
III, 21		VII, 8.	
III, 22	New.		
III, 23	Art.	III. 25.	
III, 24		III, 20.	
III, 25		III, 21.	
III, 26		III, 22.	
III, 27		III, 23.	
III, 28		III, 24.	
III, 29	New.		
IV, 1	Art.	IV, 1, amended.	
IV, 2		IV, 2.	
IV, 3		IV, 3.	
IV, 4		IV, 4.	
IV, 5		IV, 5.	
IV, 6		IV, 6.	
IV, 7		IV, 7, amended.	
IV, 8		IV, 8.	
IV, 9		IV, 9.	
V, 1		V, 1, amended.	

Schedule Showing Sources of Sections of the New York State Constitution of 1894—Continued.

Constitution of 1894.		Constitution of 1846, amended.
Art. V, § 2		New.
V,	3	Art. V, § 3, amended in language.
V,	4	V, 4, amended in language.
V,	5	V, 5, amended in language.
V,	6	V, 6.
V,	7	V, 7.
V,	8	V, 8.
V,	9	New.
VI,	1	Partly new, superseding art. VI, § 6.
VI,	2	Mostly new, superseding art. VI, §§ 7 and 28.
VI,	3	Art. VI, § 8, amended.
VI,	4	VI, § 9, amended.
VI,	5	New. Repealing art. VI, § 12.
VI,	6	New.
VI,	7	Art. VI, § 2, amended.
VI,	8	VI, 3, amended.
VI,	9	New.
VI,	10	Art. VI, § 10.
VI,	11	VI, 11, amended.
VI,	12	Partly new, superseding art. VI, §§ 13 and 14.
VI,	13	Art. VI, § 1.
VI,	14	VI, 15, amended.
VI,	15	Partly new, and see art. VI, § 15.
VI,	16	Art. VI, § 16, amended.
VI,	17	VI, 18, amended.
VI,	18	VI, 19, amended.
VI,	19	VI, 20, amended.
VI,	20	Partly new, superseding art. VI, § 21.
VI,	21	Art. VI, § 23, amended.
VI,	22	VI, 25, amended.
VI,	23	VI, 26.
VII,	1	VII, 9.
VII,	2	VII, 10.
VII,	3	VII, 11.
VII,	4	VII, 12, amended in language.
VII,	5	VII, 13.
VII,	6	VII, 14, amended.
VII,	7	New.
VII,	8	Art. VII, 6, amended.
VII,	9	VII, 3, amended.
VII,	10	New.
VIII,	1	Art. VIII, 1.
VIII,	2	VIII, 2.
VIII,	3	VIII, 3.
VIII,	4	VIII, 4.
VIII,	5	VIII, 5.
VIII,	6	VIII, 6.
VIII,	7	VIII, 7, amended.
VIII,	8	VIII, 8.
VIII,	9	VIII, 10.
VIII,	10	VIII, 11, amended.
VIII,	11–15	New.
IX,	1	New.
IX,	2	New.
IX,	3	Art. IX, 1.
IX,	4	New.
X,	1	Art. X, 1, amended.
X,	2	X, 2.
X,	3	X, 3.
X,	4	X, 4.
X,	5	X, 5.
X,	6	X, 6, amended.
X,	7	X, 7.

Schedule Showing Sources of Sections of the New York State Constitution of 1894—Continued.

Constitution of 1894.		Constitution of 1846, amended.	
Art.	X, § 8	Art.	X, § 8.
	X, 9		X, 9.
	XI, 1		XI, 1, amended.
	XI, 2		XI, 2, amended.
	XI, 3		XI, 3, amended.
	XI, 4		XI, 4, amended.
	XI, 5		XI, 5, amended.
	XI, 6		XI, 6, amended.
	XII, 1		VIII, 9.
	XII, 2	New.	
	XII, 3	New.	
	XIII, 1	Art.	XII, 1.
	XIII, 2		XV, 1.
	XIII, 3		XV, 2.
	XIII, 4		XV, 3.
	XIII, 5	New.	
	XIII, 6	Art.	XV, 4.
	XIV, 1		XIII, 1, amended.
	XIV, 2		XIII, 2, amended.
	XIV, 3	New.	
	XV, 1	Art.	XIV, 13.

Schedule Showing Disposition of Sections of the New York State Constitution of 1846, Amended.

Constitution of 1846, amended.		Constitution of 1894.	
Art.	I, § 1	Re-enacted in Art.	I, § 1.
	I, 2	"	I, 2.
	I, 3	"	I, 3.
	I, 4	"	I, 4.
	I, 5	"	I, 5.
	I, 6	"	I, 6.
	I, 7	Amended by	I, 7.
	I, 8	Re-enacted in	I, 8.
	I, 9	"	III, 20.
	I, 10	Amended by	I, 9.
	I, 11	Re-enacted in	I, 10.
	I, 12	"	I, 11.
	I, 13	"	I, 12.
	I, 14	"	I, 13.
	I, 15	"	I, 14.
	I, 16	"	I, 15.
	I, 17	Amended by	I, 16.
	I, 18	Re-enacted in	I, 17.
	II, 1	Amended by	II, 1.
	II, 2	"	II, 2.
	II, 3	"	II, 3.
	II, 4	"	II, 4.
	II, 5	"	II, 5.
	III, 1	Re-enacted in	III, 1.
	III, 2	Superseded by	III, 2.
	III, 3	"	III, 3.
	III, 4	"	III, 4.
	III, 5	"	III, 5.
	III, 6	Re-enacted in	III, 6.
	III, 7	"	III, 7.
	III, 8	"	III, 8.
	III, 9	"	III, 9.
	III, 10	Amended by	III, 10.
	III, 11	Re-enacted in	III, 11.
	III, 12	"	III, 12.
	III, 13	"	III, 13.
	III, 14	"	III, 14.

Schedule Showing Disposition of Sections of the New York State Constitution of 1846, Amended—Continued.

Constitution of 1846, amended.		Constitution of 1894.
Art. III, §	15	Amended by Art. III, § 15.
III,	16	Re-enacted in III, 16.
III,	17	" III, 17.
III,	18	Amended by III, 18.
III,	19	Re-enacted in III, 19.
III,	20	" III, 24.
III,	21	" III, 25.
III,	22	" III, 26.
III,	23	" III, 27.
III,	24	" III, 28.
III,	25	" III, 23.
IV,	1	Amended by IV, 1.
IV,	2	Re-enacted in IV, 2.
IV,	3	" IV, 3.
IV,	4	" IV, 4.
IV,	5	" IV, 5.
IV,	6	" IV, 6.
IV,	7	Amended by IV, 7.
IV,	8	Re-enacted in IV, 8.
IV,	9	" IV, 9.
V,	1	Amended by V, 1.
V,	2	" V, 1, 2.
V,	3	Amended in language, Art. V, § 3.
V,	4	" " Art. V, § 4.
V,	5	" " Art. V, § 5.
V,	6	Re-enacted in Art. V, § 6.
V,	7	" V, 7.
V,	8	" V, 8.
VI,	1	" VI, 13.
VI,	2	Amended by VI, 7.
VI,	3	" VI, 8.
VI,	4	(Causes referred to commissioners of appeals.) Abrogated.
VI,	5	(Commissioners of appeals.) Abrogated.
VI,	6	Superseded by Art. VI, § 1.
VI,	7	" VI, 2.
VI,	8	Amended by VI, 3.
VI,	9	" VI, 4.
VI,	10	Re-enacted in VI, 10.
VI,	11	Amended by VI, 11.
VI,	13	Superseded by Art. VI, § 12.
VI,	12	(City courts) repealed by Art. VI, § 5.
VI,	14	" VI, 12.
VI,	15	Amended by VI, 14.
VI,	16	" VI, 16.
VI,	17	(Question of election or appointment of judges.) Abrogated.
VI,	18	Amended by Art. VI, § 17.
VI,	19	" VI, 18.
VI,	20	" VI, 19.
VI,	21	Superseded by VI, 20.
VI,	22	" VI, 9.
VI,	23	Amended by VI, 21.
VI,	24	(First election of judges.) Abrogated.
VI,	25	Amended by Art. VI, § 22.
VI,	26	Re-enacted in VI, 23.
VII,	1	(Canal debt, etc.) Abrogated.
VII,	2	(General fund debt, etc.) Abrogated.
VII,	3	Amended by Art. VII, § 9.
VII,	4	(Loans to incorporated companies.) Abrogated.
VII,	5	(Provisions for payment of canal debt.) Abrogated.
VII,	6	Re-enacted in Art. VII, § 8.
VII,	7	(Salt springs.) Abrogated.

Schedule Showing Disposition of Sections of the New York State Constitution of 1846, Amended—Continued.

Constitution of 1846, amended.	Constitution of 1894.
Art. VII, § 8	Re-enacted in Art. III, § 21.
VII, 9	" VII, 1.
VII, 10	" VII, 2.
VII, 11	" VII, 3.
VII, 12	Amended in language Art. 8, § 4.
VII, 13	Re-enacted in Art. VII, § 5.
VII, 14	Amended by VII, 6.
VIII, 1	Re-enacted in VIII, 1.
VIII, 2	" VIII, 2.
VIII, 3	" VIII, 3.
VIII, 4	" VIII, 4.
VIII, 5	" VIII, 5.
VIII, 6	" VIII, 6.
VIII, 7	Amended by VIII, 7.
VIII, 8	Re-enacted in VIII, 8.
VIII, 9	" XII, 1.
VIII, 10	" VIII, 9.
VIII, 11	" VIII, 10.
IX, 1	" IX, 3.
X, 1	Amended by X, 1.
X, 2	Re-enacted in X, 2.
X, 3	" X, 3.
X, 4	" X, 4.
X, 5	" X, 5.
X, 6	Amended by X, 6.
X, 7	Re-enacted in X, 7.
X, 8	" X, 8.
X, 9	" X, 9.
XI, 1	Superseded by XI, 1.
XI, 2	" XI, 5.
XI, 3	Amended by XI, 4.
XI, 4	" XI, 5.
XI, 5	" XI, 6.
XI, 6	Superseded by XI, 5.
XII, 1	Re-enacted in XIII, 1.
XIII, 1	Amended by XIV, 1.
XIII, 2	" XIV, 2.
XIV, 1	(First election of senators, etc.) Abrogated.
XIV, 2	(First election of governor and lieutenant-governor.) Abrogated.
XIV, 3	(State officers to remain in office.) Abrogated.
XIV, 4	(First election of judges, etc.) Abrogated.
XIV, 5	(Pending suits.) Abrogated.
XIV, 6	(Masters in chancery.) Abrogated.
XIV, 7	(Vacancy in office of chancellor.) Abrogated.
XIV, 8	(Offices abolished.) Abrogated.
XIV, 9	(Chancellors and justices eligible.) Abrogated.
XIV, 10	(Expiration of term.) Abrogated.
XIV, 11	(Judicial officers may take fees.) Abrogated.
XIV, 12	(Local courts.) Abrogated.
XIV, 13	Amended by Art. XV, § 1.
XV, 1	Re-enacted in XIII, 2.
XV, 2	" XIII, 3.
XV, 3	" XIII, 4.
XV, 4	" XIII, 6.

NORTH CAROLINA

For organic acts relating to the lands now included within North Carolina see in other parts of this work:

Charter to Raleigh, 1584 (p. 53).
Charter of Virginia, 1606 (Virginia, p. 3783).
Charter of Virginia, 1609 (Virginia, p. 3790).
Charter of Virginia, 1612 (Virginia, p. 3802).
Ordinances for Virginia, 1621 (Virginia, p. 3810).

CHARTER OF CAROLINA—1663 * [a]

CHARLES the Second, by the grace of God, king of England, Scotland, France, and Ireland, Defender of the Faith, &c., To all to whom these present shall come: Greeting:

1st. Whereas our right trusty, and right well beloved cousins and counsellors, Edward Earl of Clarendon, our high chancellor of England, and George Duke of Albemarle, master of our horse and captain general of all our forces, our right trusty and well beloved William Lord Craven, John Lord Berkley, our right trusty and well beloved counsellor, Anthony Lord Ashley, chancellor of our exchequer, Sir George Carteret, knight and baronet, vice chamberlain of our household, and our trusty and well beloved Sir William Berkley, knight, and Sir John Colleton, knight and baronet, being excited with a laudable and pious zeal for the propagation of the Christian faith, and the enlargement of our empire and dominions, have humbly besought leave of us, by their industry and charge, to transport and make an ample colony of our subjects, natives of our kingdom of England, and elsewhere within our dominions, unto a certain country hereafter described, in the parts of America not yet cultivated or planted, and only inhabited by some barbarous people, who have no knowledge of Almighty God.

2d. And whereas the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, have humbly besought us to give, grant and confirm unto them and their heirs, the said country, with priviledges and jurisdictions requisite for the good government and safety thereof: Know

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* The Colonial Records of North Carolina, Edited by William L. Saunders, Vol. I—1662 to 1712. Raleigh. P. M. Hale, Printer to the State. pp. 20–33. 1886.

[a] Sir Robert Heath was attorney-general to Charles I, and Bancroft says: "There is room to believe that, in 1639, permanent plantations were planned and perhaps attempted by his assign," but the patent was declared void in 1663, because the purposes for which it had been granted had never been fulfilled.

See patent to Sir Robert Heath, p. 69.

ye, therefore, that we, favouring the pious and noble purpose of the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, of our special grace, certain knowledge and meer motion, have given, granted and confirmed, and by this our present charter, for us, our heirs and successors, do give, grant and confirm unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, all that territory or tract of ground, scituate, lying and being within our dominions of America, extending from the north end of the island called Lucke island, which lieth in the southern Virginia seas, and within six and thirty degrees of the northern latitude, and to the west as far as the south seas, and so southerly as far as the river St. Matthias, which bordereth upon the coast of Florida, and within one and thirty degrees of northern latitude, and so west in a direct line as far as the south seas aforesaid; together with all and singular ports, harbours, bays, rivers, isles and islets belonging to the country aforesaid; and also all the soil, lands, fields, woods, mountains, fields, lakes, rivers, bays and islets, scituate or being within the bounds or limits aforesaid, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the sea, bays, islets and rivers within the premises, and the fish therein taken; and moreover all veins, mines, quarries, as well discovered as not discovered, of gold, silver, gems, precious stones, and all other whatsoever, be it of stones, metals, or any other thing whatsoever, found or to be found within the countries, isles and limits aforesaid.

3d. And furthermore, the patronage and advowsons of all the churches and chappels, which as Christian religion shall increase within the country, isles, islets and limits aforesaid, shall happen hereafter to be erected, together with license and power to build and found churches, chappels and oratories, in convenient and fit places, within the said bounds and limits, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of our kingdom of England, together with all and singular the like, and as ample rights, jurisdictions, priviledges, prerogatives, royalties, liberties, immunities and franchises of what kind soever, within the countries, isles, islets and limits aforesaid.

4th. To have, use, exercise and enjoy, and in as ample manner as any bishop of Durham in our kingdom of England, ever heretofore have held, used or enjoyed, or of right ought or could have, use, or enjoy. And them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, we do by these presents, for us, our heirs and successors, make, create and constitute the true and absolute Lords Proprietors of the country aforesaid, and of all other the premises; saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same, and saving also the right, title and interest of all and every our subjects of the English nation, which are now planted within the limits and bounds aforesaid (if any be). To have, hold, possess and enjoy the said country, isles, islets, and all and singular other the premises, to them

the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, Sir John Colleton, their heirs and assigns forever, to be holden of us, our heirs and successors, as of our manner of East Greenwich in our county of Kent, in free and common soccage, and not in capite, or by knight service; yielding and paying yearly to us, our heirs and successors, for the same, the yearly rent of twenty marks of lawful money of England, at the feast of All Saints, yearly forever, the first payment thereof to begin and to be made on the feast of All Saints, which shall be in the year of our Lord one thousand six hundred and sixty-five, and also the fourth part of all gold or silver ore, which, within the limits aforesaid, shall from time to time happen to be found.

5th. And that the country, thus by us granted and described, may be dignified by us with as large titles and priviledges as any other part of our dominions and territories in that region, Know ye, that we of our further grace, certain knowledge, and meer motion, have thought fit to erect the same tract of ground, county, and island, into a province, and out of the fulness of our royal power and prerogative, we do, for us, our heirs and successors, erect, incorporate and ordain the same into a province, and call it the Province of Carolina, and so from henceforth will have it called; and forasmuch as we have hereby made and ordained the aforesaid Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, the true lords and proprietors of all the province aforesaid; Know ye, therefore moreover that we, reposing especial trust and confidence in their fidelity, wisdom, justice and provident circumspection, for us, our heirs and successors, do grant full and absolute power, by virtue of these presents, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, for the good and happy government of the said province, to ordain, make, enact, and under their seals to publish any laws whatsoever, either appertaining to the publick state of the said province, or to the private utility of particular persons, according to their best discretion, of and with the advice, assent and approbation of the freemen of the said province, or of the greater part of them, or of their delegates or deputies, whom for enacting of the said laws, when and as often as need shall require, we will that the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, shall from time to time assemble in such manner and form as to them shall seem best, and the same laws duly to execute upon all people within the said province and limits thereof, for the time being, or which shall be constituted under the power and government of them or any of them, either sailing towards the said province of Carolina, or returning from thence towards England, or any other of our, or foreign dominions, by imposition of penalties, imprisonment or any other punishment; yea, if it shall be needfull, and the quality of the offence requires it, by taking away member and life, either by them, the said Edward Earl of Clarendon, George Duke

of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, or by them or their deputies, lieutenants, judges, justices, magistrates, officers and members to be ordained or appointed according to the tenor and true intention of these presents; and likewise to appoint and establish any judges or justices, magistrates or officers whatsoever, within the said province, at sea or land, in such manner and form as unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton and their heirs shall seem most convenient; also, to remit, release, pardon and abolish (whether before judgment or after) all crimes and offences whatsoever, against the said laws, and to do all and every other thing and things, which unto the compleat establishment of justice unto courts, sessions, and forms of judicature and manners of proceedings therein do belong, although in these presents express mention be not made thereof; and by judges and by him or them delegated, to award process, hold pleas, and determine in all the said courts, and places of judicature, all actions, suits and causes whatsoever, as well criminal or civil, real, mixt, personal, or of any other kind or nature whatsoever; which laws, so as aforesaid to be published, our pleasure is, and we do require, enjoin and command, shall be absolute, firm and available in law, and that all the liege people of us, our heirs and successors, within the said province of Carolina, do observe and keep the same inviolably in those parts, so far as they concern them, under the pains and penalties therein expressed, or to be expressed: *Provided nevertheless*, that the said laws be consonant to reason, and as near as may be conveniently, agreeable to the laws and customs of this our kingdom of England.

6th. And because such assemblies of freeholders cannot be so conveniently called, as there may be occasion to require the same, we do, therefore, by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, by themselves or their magistrates, in that behalf lawfully authorized, full power and authority from time to time to make and ordain fit and wholesome orders and ordinances, within the province aforesaid, to be kept and observed as well for the keeping of the peace, as for the better government of the people there abiding, and to publish the same to all to whom it may concern; which ordinances, we do by these presents streightly charge and command to be inviolably observed within the said province, under the penalties therein expressed, so as such ordinances be reasonable, and not repugnant or contrary, but as near as may be, agreeable to the laws and statutes of this our kingdom of England, and so as the same ordinances do not extend to the binding, charging, or taking away of the right or interest of any person or persons, in their freehold, goods or chattels whatsoever.

7th. And to the end the said province may be more happily increased, by the multitude of people resorting thither, and may likewise be the more strongly defended from the incursions of salvages and other enemies, pirates and robbers, therefore we, for us, our heirs

and successors, do give and grant by these presents, power, license and liberty unto all the liege people of us, our heirs and successors in our kingdom of England or elsewhere, within any other our dominions, islands, colonies or plantations, (excepting those who shall be especially forbidden,) to transport themselves and families unto the said province, with convenient shipping and fitting provisions, and there to settle themselves, dwell and inhabit, any law, statute, act, ordinance, or other thing to the contrary in any wise notwithstanding. And we will also, and of our more special grace, for us, our heirs and successors, do streightly enjoin, ordain, constitute and command, that the said province of Carolina, shall be of our allegiance, and that all and singular the subjects and liege people of us, our heirs and successors, transported or to be transported into the said province, and the children of them and of such as shall descend from them, there born or hereafter to be born, be and shall be denizons and lieges of us, our heirs and successors of this our kingdom of England, and be in all things held, treated, and reputed as the liege faithful people of us, our heirs and successors, born within this our said kingdom, or any other of our dominions, and may inherit or otherwise purchase and receive, take, hold, buy and possess any lands, tenements or hereditaments within the same places, and them may occupy, possess and enjoy, give, sell, aliene and bequeathe; as likewise all liberties, franchises and priviledges of this our kingdom of England, and of other our dominions aforesaid, and may freely and quietly have, possess and enjoy, as our liege people born within the same, without the least molestation, vexation, trouble or grievance of us, our heirs and successors, any statute, act, ordinance, or provision to the contrary notwithstanding.

8th. And furthermore, that our subjects of this our said kingdom of England, and other our dominions, may be the rather encouraged to undertake this expedition with ready and chearful minds, know ye, that we of our special grace, certain knowledge and meer motion, do give and grant by virtue of these presents, as well to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, as unto all others as shall from time to time repair unto the said province, with a purpose to inhabit there, or to trade with the natives of the said province, full liberty and license to lade and freight in any port whatsoever, of us, our heirs and successors, and into the said province of Carolina, by them, their servants or assigns, to transport all and singular their goods, wares and merchandises, as likewise all sorts of grain whatsoever, and any other things whatsoever, necessary for the food and clothing, not prohibited by the laws and statutes of our kingdoms and dominions, to be carried out of the same, without any let or molestation of us, our heirs and successors, or of any other of our officers, or ministers whatsoever, saving also to us, our heirs and successors, the customs and other duties and payments, due for the said wares and merchandises, according to the several rates of the places from whence the same shall be transported. We will also, and by these presents, for us, our heirs and successors, do give and grant license by this our charter, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven,

John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and to all the inhabitants and dwellers in the province aforesaid, both present and to come, full power and absolute authority to import or unlade by themselves or their servants, factors or assigns, all merchandises and goods whatsoever, that shall arise of the fruits and commodities of the said province, either by land or by sea, into any of the ports of us, our heirs and successors, in our kingdom of England, Scotland or Ireland, or otherwise to dispose of the said goods, in the said ports; and if need be, within one year next after the unlading, to lade the said merchandises and goods again into the same or other ships, and to export the same into any other countries either of our dominions, or foreign, being in amity with us, our heirs and successors, so as they pay such customs, subsidies, and other duties for the same, to us, our heirs and successors, as the rest of our subjects of this our kingdom, for the time being, shall be bound to pay, beyond which we will not, that the inhabitants of the said province of Carolina, shall be any ways charged.

9th. *Provided nevertheless*, and our will and pleasure is, and we have further for the consideration aforesaid, of our more especial grace, certain knowledge, and meer motion, given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, full and free license, liberty and authority, at any time or times, from and after the feast of St. Michael the archangel, which shall be in the year of our Lord Christ, one thousand six hundred sixty and seven, as well to import, and bring into any of our dominions from the said province of Carolina, or any part thereof, the several goods and commodities, hereinafter mentioned, that is to say, silks, wines, currants, raisins, capers, wax, almonds, oyl and olives, without paying or answering to us, our heirs or successors, any custom, import, or other duty, for and in respect thereof, for and during the term and space of seven years, to commence and be accompted, from and after the first importation of four tons of any the said goods, in any one bottom, ship or vessel from the said province, into any of our dominions, as also to export and carry out of any of our dominions, into the said province of Carolina, custom free, all sorts of tools which shall be usefull or necessary for the planters there, in the accommodation and improvement of the premises, any thing before, in these presents contained, or any law, act, statute, prohibition or other matter, or anything heretofore had, made, enacted or provided, or hereafter to be had, made, enacted or provided, to the contrary, in any wise notwithstanding.

10th. And furthermore, of our own ample and especial grace, certain knowledge, and meer motion, we do for us, our heirs and successors, grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, full and absolute power and authority, to make, erect and constitute, within the said province of

Carolina, and the isles and islets aforesaid, such and so many seaports, harbours, creeks and other places, for discharge and unlading of goods and merchandises, out of ships, boats and other vessels, and for lading of them, in such and so many places, and with such jurisdiction, priviledges and franchises unto the said ports belonging, as to them shall seem most expedient, and that all and singular the ships, boats and other vessels, which shall come for merchandises and trade into the said province, or shall depart out of the same, shall be laden and unladen at such ports only, as shall be erected and constituted by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and not elsewhere, any use, custom or any other thing to the contrary, in any wise notwithstanding.

11th. And we do furthermore will, appoint and ordain, and by these presents for us, our heirs and successors, do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, may from time to time forever, have and enjoy, the customs and subsidies in the ports, harbors, creeks and other places within the province aforesaid, payable for goods, merchandise and wares, there laded or to be laded, or unladed, the said customs to be reasonably assessed, upon any occasion, by themselves, and by and with the consent of the free people there, or the greater part of them as aforesaid; to whom we give power by these presents, for us, our heirs and successors, upon just cause and in a due proportion, to assess and impose the same.

12th. And further, of our special grace, certain knowledge, and meer motion, we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full and absolute license, power and authority, that the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, Sir John Colleton, their heirs and assigns, from time to time, hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise or enfeof the premises, or any part or parcels thereof, to him or them that shall be willing to purchase the same, and to such person or persons as they shall think fit, to have and to hold, to them the said person or persons, their heirs or assigns, in fee simple or fee tayle, or for term for life, or lives, or years, to be held of them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, by such rents, services and customs, as shall seem meet to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John

Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and not immediately of us, our heirs and successors, and to the same person and persons, and to all and every of them, we do give and grant by these presents, for us, our heirs and successors, license, authority and power, that such person or persons, may have or take the premises, or any parcel thereof, of the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and the same to hold, to themselves, their heirs or assigns, in what estate of inheritance whatsoever, in fee simple, or fee tayle, or otherwise, as to them and the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, shall seem expedient; the statute made in the parliament of Edward, son of King Henry, heretofore king of England, our predecessor, commonly called the statute[a] of "*quia emptores terrarum;*" or any other statute, act, ordinance, use, law, custom or any other matter, cause or thing heretofore published, or provided to the contrary, in any wise notwithstanding.

13th. And because many persons born, or inhabiting in the said province, for their deserts and services, may expect and be capable of marks of honor and favor, which, in respect of the great distance, cannot be conveniently conferred by us; our will and pleasure therefore is, and we do by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power and authority, to give and confer, unto and upon, such of the inhabitants of the said province, as they shall think do or shall merit the same, such marks of favour and titles of honour as they shall think fit, so as these titles of honour be not the same as are enjoyed by, or conferred upon any the subjects of this our kingdom of England.

14th. And further also, we do by these presents, for us, our heirs and successors, give and grant license to them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power, liberty and license to erect, raise and build within the said province and places aforesaid, or any part or parts thereof, such and so many forts, fortresses, castles, cities, buroughs, towns, villages and other fortifications whatsoever, and the same or any of them to fortify and furnish with ordinance, powder, shot, armory, and all other weapons, ammunition, habilements of war, both offensive and defensive, as shall be thought fit and convenient for the safety and welfare of the said province and places, or any part thereof, and the same, or any of them from time to time, as occasion shall require, to dismantle, disfurnish, demolish and pull down, and also to place, constitute and appoint in and over all or any of the castles, forts, fortifications, cities,

[a] 18 Ed. 1 West. 3 c. 1 p. 45.

towns and places aforesaid, governors, deputy governors, magistrates, sheriffs and other officers, civil and military, as to them shall seem meet, and to the said cities, buroughs, towns, villages, or any other place or places within the said province, to grant "letters or charters of incorporation," with all liberties, franchises and priviledges, requisite and usefull, or to or within any corporations, within this our kingdom of England, granted or belonging; and in the same cities, buroughs, towns and other places, to constitute, erect and appoint such and so many markets, marts and fairs, as shall in that behalf be thought fit and necessary; and further also to erect and make in the province aforesaid, or any part thereof, so many mannors as to them shall seem meet and convenient, and in every of the said mannors to have and to hold a court baron, with all things whatsoever which to a court baron do belong, and to have and to hold views of "frank pledge" and "court leet," for the conservation of the peace and better government of those parts within such limits, jurisdictions, and precincts, as by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or their heirs, shall be appointed for that purpose, with all things whatsoever, which to a court leet, or view of frank pledge do belong, the said court to be holden by stewards, to be deputed and authorized by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or their heirs, or by the lords of other mannors and leets, for the time being, when the same shall be erected.

15th. And because that in so remote a country, and scituate among so many barbarous nations, and the invasions as well of salvages as of other enemies, pirates and robbers, may probably be feared; therefore we have given, and for us, our heirs and successors, do give power, by these presents, unto the said Edward, Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, by themselves, or their captains, or other their officers, to levy, muster and train all sorts of men, of what condition or wheresoever born, in the said province for the time being, and to make war and pursue the enemies aforesaid, as well by sea as by land, yea, even without the limits of the said province, and by God's assistance to vanquish and take them, and being taken to put them to death by the law of war, or to save them at their pleasure; and to do all and every other thing, which unto the charge of a captain general of an army belongeth, or hath accustomed to belong, as fully and freely as any captain general of an army hath or ever had the same.

16th. Also our will and pleasure is, and by this our charter we give unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power, liberty and authority, in case of rebellion, tumult or sedition, (if any should happen,) which God forbid, either upon the land within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by him or

themselves, their captains, deputies and officers, to be authorized under his or their seals for that purpose, to whom also, for us, our heirs and successors, we do give and grant by these presents, full power and authority, to exercise martial law against mutinous and seditious persons of those parts, such as shall refuse to submit themselves to their government, or shall refuse to serve in the wars, or shall fly to the enemy, or forsake their colours or ensigns, or be loyterers or straglers, or otherwise howsoever offending against law, custom or discipline military, as freely and in as ample manner and form as any captain general of an army by vertue of his office, might or hath accustomed to use the same.

17th. And our further pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and to all the tenants and inhabitants of the said province of Carolina, both present and to come, and to every of them, that the said province and the tenants and inhabitants thereof, shall not from henceforth be held or reputed a member or part of any colony whatsoever in America, or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on, or subject to their government in anything, but be absolutely seperated and divided from the same; and our pleasure is, by these presents, that they be seperated, and that they be subject immediately to our crown of England, as depending thereof forever; and that the inhabitants of the said Province, nor any of them, shall at any time hereafter be compelled or compellable, or be any ways subject or liable to appear or answer to any matter, suit, cause or plaint whatsoever, out of the Province aforesaid, in any other of our islands, colonies, or dominions in America or elsewhere, other than in our realm of England, and dominion of Wales.

18th. And because it may happen that some of the people and inhabitants of the said province, cannot in their private opinions, conform to the publick exercise of religion, according to the liturgy, form and ceremonies of the church of England, or take and subscribe the oaths and articles, made and established in that behalf, and for that the same, by reason of the remote distances of these places, will, we hope be no breach of the unity and uniformity established in this nation; our will and pleasure therefore is, and we do by these presents, for us, our heirs and successors, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full and free license, liberty and authority, by such legal ways and means as they shall think fit, to give and grant unto such person or persons, inhabiting and being within the said province, or any part thereof, who really in their judgments, and for conscience sake, cannot or shall not conform to the said liturgy and ceremonies, and take and subscribe the oaths and articles aforesaid, or any of them, such indulgencies and dispensations in that behalf, for and during such time and times, and with such limitations and restrictions as they, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley,

Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs or assigns, shall in their discretion think fit and reasonable; and with this express proviso, and limitation also, that such person and persons, to whom such indulgencies and dispensations shall be granted as aforesaid, do and shall from time to time declare and continue, all fidelity, loyalty and obedience to us, our heirs and successors, and be subject and obedient to all other the laws, ordinances, and constitutions of the said province, in all matters whatsoever, as well ecclesiastical as civil, and do not in any wise disturb the peace and safety thereof, or scandalize or reproach the said liturgy, forms and ceremonies, or anything relating thereunto, or any person or persons whatsoever, for or in respect of his or their use or exercise thereof, or his or their obedience and conformity, thereunto.

19th. And in case it shall happen, that any doubts or questions should arise, concerning the true sense and understanding of any word, clause or sentence contained in this our present charter, we will, ordain and command, that at all times, and in all things, such interpretation be made thereof, and allowed in all and every of our courts whatsoever, as lawfully may be adjudged most advantageous and favourable to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, although express mention be not made in these presents, of the true yearly value and certainty of the premises, or any part thereof, or of any other gifts and grants made by us, our ancestors, or predecessors, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or any other person or persons whatsoever, or any statute, act, ordinance, provision, proclamation or restraint, heretofore had, made, published, ordained or provided, or any other thing, cause or matter, whatsoever, to the contrary thereof, in any wise notwithstanding.

In Witness, &c.

Witness the King, at Westminster, the four and twentieth day of March, in the fifteenth year of our reign, (1663.)

Per Ipsum Regem.

A DECLARATION AND PROPOSALS OF THE LORD PROPRIETOR OF CAROLINA, AUG. 25–SEPT. 4, 1663 [a]

25 Aug., 1663.

His majesty having been graciously pleased, by his charter bearing date the 24th of March, in the 15th year of his reign, out of a pious and good intention for the propagation of the Christian faith amongst the barbarous and ignorant Indians, the enlargement of his empire and dominions, and enriching of his subjects, to grant and confirm to us, Edward, earl of Clarendon, high chancellor of England, George, duke of Albemarle, master of his majesty's horse and captain-general of all his forces, William, Lord Craven, John, Lord Berkeley,

[a] Text in the Colonial Records of North Carolina, Edited by William C. Saunders, (Raleigh, 1886) Vol. I, pp. 43–46.

Anthony, Lord Ashley, chancellor of his majesty's exchequer, Sir George Carteret, knight and baronet, vice-chamberlain of his majesty's household, William Berkeley, knight, and Sir John Colleton, knight and baronet, and all that territory or tract of ground with the islands and islets situate, lying, and being in his dominions in America, extending from the north end of the island called Lucke Island, which lieth in the Southern Virginia sea, and within 36 degrees of the northern latitude, and to the west as far as the South seas, and so southwardly as far as the river St. Matthias, which bordereth upon the coast of Florida, and within —— degrees of the northern latitude; in pursuance of which grant, and with a clear and good intention to make those parts useful and advantageous to his majesty and his people; we do hereby declare and propose to all his majesty's loving subjects wheresoever abiding or residing, and do hereby engage inviolably to perform and make good those ensuing proposals in such manner as the first undertakers of the first settlement shall reasonable desire.

1. If the first colony will settle on Charles River near Cape Fear, which seems to be desired, it shall be free for them to do so on the larboard side entering [south side]. If in any other of the territory, then to choose either side, if by a river; we reserving to ourselves twenty thousand acres of land, to be bounded and laid out by our agents in each settlement, in such places as they shall see fit, and in such manner that the colony shall not be thereby incommoded or weakened; which we intend by our agents or assignees in due time to settle and plant, they submitting to the government of that colony.

2. That the first colony may have power, when desired, at their own charge to fortify the entrance of the river, as also the sea-coast and island; they engaging to be true and faithful to his majesty, his heirs and successors, by some oath or engagement of their own framing.

3. That the undertakers of that settlement do, before they or any of them repair thither to settle, present to us thirteen persons of those that intend to go, of which number we shall commissionate one to be Governor, for three years from the date of his commission, and six more of the thirteen to be of his council, the major part of which number, the Governor or his deputy to be one, to govern for the time aforesaid; and will also nominate successors to the Governor, who shall be of the six councillors aforesaid, to succeed in the government, in case of death or removal; and likewise councillors out of the remaining six of the thirteen to succeed in case of death or removal of any of the councillors, and after the expiration of the first three years, and so successively for every three years. Upon or before the 25th day of March, before the expiration of the time of the Governor in, being a new presentment by the freeholders of the colony, or by such persons as they shall constitute, to be made of the thirteen persons, four of which shall consist of those that shall be in the government at the time of the election of the thirteen, out of which we will, upon or before the 10th day of April following declare and commissionate a Governor and six councillors with their respective successors in case and manner as aforesaid.

4. We shall, as far as our charter permits us, empower the major part of the freeholders, or their deputies or assembly-men, to be

by them chosen out of themselves, viz: two out of every tribe, division, or parish, in such manner as shall be agreed on, to make their own laws, by and with the advise and consent of the Governor and council, so as they be not repugnant to the laws of England, but, as near as may be, agreeing with them in all civil affairs, with submission to a superintendency of a general council, to be chosen out of every government of the province, in manner as shall be agreed on for the common defence of the whole; which laws shall, within one year after publication, be presented to us to receive our ratification, and to be in force until said ratification be desired and by us certified; but if once ratified, to continue until repealed by the same power, or by time expired.

5. We will grant, in as ample manner as the undertakers shall desire, freedom and liberty of conscience in all religious or spiritual things, and to be kept inviolably with them, we having power in our charter so to do.

6. We will grant the full benefit of these immunities to the undertakers and settlers which, by the charter, is granted to us (for our services to his majesty) in relation to freedom of customs, of tools of all sorts useful there, to be exported from England for the planters' use; and of certain growths of the plantations, as wine, oil, raisins of all sorts, olivers, capers, wax, currants, almonds, and silks, to be imported into any of his majesty's dominions for seven years for each commodity, after four tons of every respective species is imported as aforesaid in one bottom.

7. We will grant to every present undertaker for his own head, one hundred acres of land, to him and his heires forever, to be held in free and common soccage; and for every man-servant that he shall bring or sent thither, that is fit to bear arms, armed with a good firelock musket, performed bore, twelve bullets to the pound, and with twenty pounds of powder and twenty pounds of bullets, fifty acres of land; and for every woman-servant thirty acres; and to every man-servant that shall come within that time, ten acres after the expiration of his time; and to every woman-servant six acres after the expiration of her time.

Note that we intend not hereby to be obliged to give the proportions of lands above mentioned to masters and servants, longer than in the first five years, to commence at the beginning of the first settlement.

8. We will enjoin the Governor and council to take care that there be always one man armed and provided as aforesaid in the colony, for every fifty acres which we shall grant, and that there be a supply to make up the number in case of death or quitting the colony by the owners of said lands within twelve months after giving notice of the defect.

In consideration of the premises, we do expect by way of acknowledgment, and towards the charge we have been and shall be at, one halp-penny for every acre that shall be granted as aforesaid, within the time before limited and expressed; and that the court-houses and houses for public meetings be erected by the public moneys of the colony on the lands taken up by us; but to be and continue to the country's use forever, they paying some small acknowledgement.

Given under our hands this twenty-fifth day of August, Anno Domini, 1663.

CONCESSIONS AND AGREEMENTS OF THE LORDS PROPRIETORS OF THE PROVINCE OF CAROLINA, 1665 [a]

The Concessions and Agreement of the Lords Propryators of the Province of Carolina to and with the adventurers of the Island of Barbados and their associates of England New England the Carribbia Islands and Barmothos to the Province of Carolina and all that shall plant there In order to the setling and planting of the Countye of Clarendine the County of Albermarle and the County which latter is to bee to the southward or westward of Cape Romania all within the Province aforesaid.

1. Imp[ris] Wee doe consent and agree that the Governor of each County hath power by the advise of his Councill to depute one in his place and Authority in case of death or removall to continue untill our further order unless wee have commissionated one before.

2. Item That he hath likewayes power to choyce of and to take to him six Councillors at least or twelve at moast or any even Number between six and twelve with whose advise and consent or with at least three of the six or fower of a greater Number all being summoned he is to govern according to the Lymitacons and Instructions following during our pleasure;

3. Item That the chiefe Registers or Secretarys which wee have chosen or shall chuse wee fayling that hee shall chuse shall keepe exact entereyes in faire bookes of all publicke affaires of the said Countyes and to avoyde deceiptes and lawsuits shall record and enter all Graunts of Land from the Lords to the planter and all conveyances of Land howse or howses from man to man, As alsoe all leases for Land howse or howses made or to be made by the Landlord to any tenant for more than one yeare, which conveyance or Lease shalbe first acknowledged by the Grant[r] or Leasor or proved by the oath of two witnesses to the conveyance or Lease before the Governor or some Cheife Judge of a Court for the time being whoe shall under our hand us grant upon the backside of the said deeds or Lease attest the acknowledgement or proofe as aforesaid which shalbe our grant for the Registers to record the same which Conveyance or Lease soe recorded shalbe good and effectual in Law notwithstanding any other conveyance deede or Lease for the said Land howse or howses or for any part there although dated before the Conveyance deede or Lease soe recorded as aforesaid And the said Registers shall doe all other thing or things that wee by our instructions shall direct and y[e] Governors Councell and Assembly shall ordaine for the good and wellfaire of the said Countyes;

4. Item That the surveyor Gen[ll] that wee have chosen or shall chuse wee fayling that the Governor shall chuse, shall have power by himself or Deputy to survey ley out and bound all such Lands as shalbe granted from the Lords to the Planters (and all other Lands within the said Countyes &c which may concerne particular men as he shalbe desired to doe) And a particular thereof certifie to the Registers and Surveyors or either of them shall soe misbehave themselves as that the Governor and Councill or Deputy Governor

[a] Text in the Colonial Records of North Carolina. Vol. I., pp. 79–86. (Raleigh, 1886).

and Councill or the majr pte of them shall finde it reasonable to suspend their Actings in their respective Imployments it shalbe lawful for them soe to doe untill further order from us;

5. Item That all choise of officers made by the Governor shalbe for noe longer time then during our pleasure;

6. Item That the Governors Councillors Assemblymen Secretarys Surveyors and all other officers of trust shall sware or subscribe (in a booke to be provided for that purpose) that they will bare trew allegance to the King of England his heires and successors and that they wilbe faithfull to the Interest of the Lords Propryatrs of the said Province and their heires executors and assignes and evdeavor the peace and wellfaire of the said Province and that they will trewly and faithfully discharge their respective trusts in their respective offices and doe equall justice to all men according to their best skill and judgmt without corruption favor or affection, and the names of all that have sworne or subscribed to be entred in a booke; And whosoever shall subscribe and not sware, and shall vyolate his promis in that Subscription shalbe lyable to the same punishmt that the persons are or may be that have sworne and broken their oathes;

7. Item That all persons that are or shalbecome subjects to the King of England and sware or subscribe allegiance to the King and faithfulness to the Lords as above shalbe admitted to plant and become freemen of the Province and enjoy the freedomes and Immunitys hereafter exprest until some stop or Contradiccon be made by us the Lords or else by the Governor Councill and Assembly wch shalbe in force untill the Lords see Cause to the Contrary provided yt such stop shall not anywayes prejudice ye right or Continewance of any person that hath beene recd before such stop or order come from the Lords or Genll Assembly.

8. Item That noe person or persons quallifyed as aforesaid within the Province or all or any of the Countyes before exprest at any time shalbe anywayes molested punished disquieted or called in question for any differences in opinion or practice in matters of religious concernment whoe doe not actually disturbe the civill peace of the said Province or Countyes byt that all and every such person and persons from to time and at all times freely and fully have and enjoye his and their judgements and contiences in mattrs of religion throughout all the sd Province they behaving themselves peaceably and quietly and not using this Liberty to Lycentiousness nor to the Civill Injury or outward disturbance of others, any Law statute or clause conteyned or to be conteyned usuage or custom of this realme of England to the contrary hereof in anywise notwithstanding.

9. Item That noe pretence may be taken by us our heries or assignes for or by reason of or right of patronage and powr of advowson graunted unto us by his Majties Letters pattents aforesaid to infringe thereby ye Genll clause of Liberty of Contience aforemenconed We doe hereby graunt unto the Genll assemblyes of ye sevll Countyes power by act to constitute and appoint such and soe many Ministers or preachrs as they shall thinke fitt, and to establish their maintenance Giving Liberty besides to any person or persons to keepe and mainteyne wt preachers or Ministers they please.

10. Item That the inhabitants being freemen or chiefe agents to others of ye Countyes afores doe as soone as this our Comission shall arrive by virtue of a writt in our names by the Governor to be for ye

present (untill our seale comes) sealed and syned make choice of twelve Deputyes or representatives from amongst themselves whoe being chosen are to joyne with him the s^d^ Governor and Councill for the makeing of such Lawes Ordinances and Constitutions as shalbe necessary for the present good and welfare of the severall Countyes afores^d^ but as soone as Parishes Divisions tribes or districc̄ons of y^e^ said Countyes are made that then y^e^ Inhabitants or Freeholders of the sev^ll^ and respective Parishes Tribes Divisions or Districc̄ons of the Countyes afores^d^ doe (by our writts under our Seale w^ch^ wee Ingage shalbe in due time issued) annually meete on y^e^ first day of January and chuse freeholders for each respective denizon Tribe or parish to be y^e^ Deputyes or representatives of y^e^ same, which body of Representatives or y^e^ Maj^r^ parte of them shall w^th^ the Governor and Councill afores^d^ by y^e^ Gen^ll^ Assembly of the County for which they shalbe chosen, the Governor or his Deputy being present unless they shall wilfully refuse in w^ch^ case they may appoint themselves a president during the absence of the Governor or his Deputy Governor.

Which Assemblyes are to have power.

1. Item To appoint their own times of meeting and to adjorne their sessions from time to time to such times and places as they shall thinke Convenient as alsoe to ascertaine y^e^ Number of their Quorum Provided that such members be not less than y^e^ third p^te^ of the whole in whome or more shalbe y^e^ full power of the Generall Assembly (viz^t^)

2. Item To enact and make all such Lawes Acts and Constitutions as shalbe necessary for the well Government of y^e^ County for w^ch^ they shalbe chosen and them to repeale provided that the same be consonant to reason and as near as they may be conveniently agreable to the Lawes and Customes of his Maj^ties^ Kingdom of England provided alsoe that they be not against y^e^ Interest of us the Lords Propryators our heires or assignes nor any of these our present concessions Espetially that they be not against the Article for Liberty of Contience abovemenc̄oned, which Lawes &c soe made shall receave publication from the Governor and Councill (but as the Lawes of us and our Gen^ll^ Assembly) and be in force for the space of one yeare and a halfe and noe more; Unless contradicted by the Lords Propryators within which time thay are to be presented to us our heries, &c, for our ratification and being confirmed by us they shalbe in continuall force till expired by their owne Limitac̄on or by Act of Repeale in like manner as afores^d^ to be passed and confirmed;

3. Item by act as afores^d^ to constitute all Courts for their respective Countyes, together w^th^ y^e^ Lymitts powers and jurisdicc̄ons of y^e^ said Courts as also y^e^ severall offices & Number of Officers belonging to each of the s^d^ respective Courts together with their severall and respective salleryes fees and perquisites Theire appellations and dignities with the penalltyes that shalbe due to them for breach of their severall and respective dutyes and Trusts.

4. Item by act as afores^d^ to ley equall taxes and assessments equally to rayse Moneyes or goods upon all Lands (excepting the lands of us the Lords Propryators before setling) or persons within the severall precincts Hundreds Parishes Manōrs or whatsoever other denizons shall hereafter be made and established in y^e^ said Countyes as oft as necessity shall require and in such manner as to them shall seeme most equall and easye for y^e^ s^d^ Inhabitants in order to the better

supporting of the publicke Charge of the said Government, and for the mutuaall safety defense and security of y^e^ Countyes.

5. Item by act as afores^d^ to erect within y^e^ said Countyes such soe many Baronyes and Manōrs with their necessary Courts, jurisdiccons freedomes and priviledges as to them shall seeme convenient, as alsoe to devide y^e^ s^d^ Countyes into Hundreds Parishes Tribes or such other denizons and districcons as they shall thinke fitt and the said Divisions to distinguish by what names we shall order or direct, and in default thereof by such names as they please As also within any part of y^e^ said Countyes to create and appoint such and soe many harbours Creekes and other places for y^e^ convenient ladeing and unlading of goods and merchandize out of shipps, boates and other vessells as they shall see expedient with such jurisdiccons priveledges and francheses to such ports &c belonging as they shall judge most convenient to the gen^l^ good of y^e^ said plantacon or Countyes.

6. Item by these enacting to be confirmed as afores^d^ to erect rayse and build within the s^d^ Countyes or any part thereof such and soe many Forts Fortresses Castles Cittyes Corporacons Borroughs Townes Villages and other places of strenkt and defence and them or any of them to incorporate with such Charters and priveledges as to them shall seeme good and our Charter will permit and the same or any of them to fortifie and furnish with such Proportions of ordinance powder shott Armor and all other Weapons Ammunition and Habillaments of warr both offensive and defensive as shalbe thought necessary and convenient for the safety and welfare of y^e^ s^d^ Countyes, but they may not at any time demolish dismantle or disfurnish the same without the consent of the Governor and the Major parte of the Councill of the County where such Forts Fortresses &c. shalbe erected and built.

7. Item by act as afores^d^ to constitute trayne bands and Companys with the number of souldiers for the safety strength and defence of the said Countyes and Province and of the Forts Castles Cityes &c to suppress all meutinyes and Rebellions. To make warr offensive and defensive with all Indians Strangers and Foraigners as they shall see cause and to persue any Enemy by sea as well as by land if need be out of y^e^ Lymitts and Jurisdiccons of y^e^ s^d^ County with the perticculer consent of the Governor and under the Conduct of our Leut: Gen: or Commander in Cheife or whome he shall appoint.

8. Item by act as afores^d^ to give unto all strangers as to them shall seeme meete a Naturalizion and all such freedomes and priveledges within the s^d^ Countyes as to his Maj^ties^ subjects doe of right belong they swearing or subscribing as afores^d^ w^ch^ said strangers soe naturallized and priveledged shall alsoe have the same Imunityes from Customes as is granted by the Kinge to us and by us to y^e^ said Countyes and shall not be lyable to any other Customes then the rest of his Maj^ties^ subjects in the s^d^ Counties are but be in all respects accompted in the Province and Countyes aforesaid as the King's naturall subjects.

9. Item by act as afores^d^ to prescribe y^e^ quantities of land which shalbe from time to time alotted to eavery free or Sarv^t^ male or female and to make and ordaine Rules for the casting of Lotts for Land and leying out of y^e^ same provided y^t^ these doe not their said prescriptions exceed y^e^ severall proportions which are hereby graunted

by us to all persons arriveing in the said Countyes or adventuring theither;

10. Item the Gen^{ll} Assembly by act as afores^{d} shall make provision for the maintenance and Support of the Governor and for the defraying for all necessary Charges of the Government as alsoe that the Cunstables of the respective Countyes shall collect the halfe penny per acre payable to y^{e} Lords in theire Countyes and pay y^{e} same to y^{e} receavor y^{t} y^{e} Lords shall appoint to receave the same unless y^{e} s^{d} Generall Assembly shall prescribe some other way whereby the Lords may have their rents duely collected wthout charge or trouble to them.

11. Lastly to enact constitute and ordaine all such other Lawes actes and constitutions as shall or may be necessary for the good prosperity and setlement of y^{e} said Countyes excepting w^{t} by these pesents are excepted and conformeing to Limitacons herein exprest,

The Governors are with the Councill before exprest:

1. Item to see that all Courts established by the Lawes of y^{e} Gen^{ll} Assembly and all Ministers and offices Civill or Military doe and execute their severall dutyes and offices respectively according to the Lawes in force and to punish them from swerveing from the Lawes or acting contrary to their trust as the nature of their offence shall require.

2. Item according to the constitutions of the Gen^{ll} Assembly to nominate and comissionate the severall Judges, Members and Officers of Courts wheither Majistraticall or Ministeriall and all other civill officers as Justices Coroners &c the Comissions and powers and Privrledges to revoake at pleasure provided that they appoint none but such as are freeholders in the Countyes afores^{d} unless the Generall Assembly consent;

3. Item according to the constitutions of the Gen^{ll} Assembly to appoint Courts and officers in Cases Cryminall and to impower them to inflict penaltyes upon offenders against any of y^{e} said Lawes in force in y^{e} said Countyes as y^{e} said Lawes shall ordaine wheither by fine Imprisonment Banishm^{t} corporall punishm^{t} or to y^{e} taking away of member of or Life itselfe if there be cause for it.

4. Item to place officers and soldiers for the safety strenkt and defence of the Forts Castles Cittyes &c according y^{e} number appointed by the Gen^{ll} Assembly to nominate place and commissionate all military officers under y^{e} dignity of y^{e} Leut: Gen^{ll} whoe is commissionated by us, over the sev^{ll} trayned bands and Companys constituted by y^{e} Gen^{ll} Assembly as Collonels Capts: &c and theire comissions to revoake at pleasure, y^{e} Leut: Gen: with the advise of his Councill unless some present danger will soe permit him to advize to muster and trayne all y^{e} soldiers wthin the said County of Countyes to prosecute warr persue an Enemy suppress rebel^{l}ons and mewtinies as well by sea as Land and to exercise the whole Millitia as fully as by our Letters pattents from the kinge wee can impower him or them to doe Provided y^{t} they appoint noe Military officers but w^{t} are freeholders in the s^{d} Countyes unless y^{e} Gen^{ll} Assembly shall consent.

5. Item where they see cause after condemnacon to reprieve untill the Case may be presented with a Coppy of y^{e} whole tryall proceedings and proofes to y^{e} Lords who will accordingly eather pardon or comand execution of y^{e} sentence on the offender offender who is in y^{e}

meane time to be kept in safe custody till the pleasure of y^e^ Lords be knowne.

6. Item in case of death or other removall of any of the representatives within the yeare to issue summons by writt to y^e^ respective division or divisions for which he or they were chosen comanding the freeholders of y^e^ same to chuse others in their steade;

7. Item to make warrants and to seale Grants of Land according to theis our Concessions and the prescriptions by y^e^ advice of y^e^ Gen^ll^ Assembly in sũch forme as shalbe at large set down in our Instrucons to y^e^ Governor in his Comission and which are hereafter expressed.

8. Item to act and doe all other thing or things y^t^ may conduce to y^e^ safety peace and well Government of y^e^ said Countyes as they shall see fitt soe as they be not contrary to y^e^ Lawes of y^e^ Countyes aforesaid;

For the better security of the proprietyes of all the Inhabitants.

1. Item they are not to impose nor suffer to be imposed any tax Custome Subsidy Tallage Assessment or any other duty w^t^soever upon any Culler or pretence upon y^e^ s^d^ County or Countyes and the Inhabitants thereof other then what shalbe imposed by y^e^ Authority and consent of y^e^ Generall Assembly and then only in manner as aforesaid;

2. They are to take care y^e^ land quietly held planted and possessed seaven yeares after its bing first duely surveyed by the Surveyor Generall or his order shall not be subject to any review resurvey or alteration of bounds on w^t^ pretence soever or by any of us or any offic^rs^ or Ministers under us.

3. Item they are to be taken care y^t^ noe man if his Catle straye range or graze on any ground w^th^in the s^d^ Countyes not actually appropryated or sett out to particuler persons shalbe lyable to pay any trespass for y^e^ same to us our heires &c Provided y^t^ Custome of Comons be not thereby pretended to; nor any person hindred from taking up and appropriating any Lands soe grazed upon and y^t^ noe person purposely doe suffer his Catle to graze on such land.

4. It is our will and desire that y^e^ Inhabitants of the said Countyes and adventurers theither shall enjoye all the same Immunityes from Customes for exporting certine goods from these Realmes of England &c theither as y^e^ Kinge hath been graciously pleased to graunt to us as alsoe for y^e^ Incorragement of the Manufact^rs^ of wine silke oyle ollives fruite almonds &c. menconed in the pattent have priveledge for bringing them Custome free into any of his Maj^ties^ dominions for y^e^ same time and upon y^e^ same tearmes as we ourselves may by our Pattent.[a]

CHARTER OF CAROLINA—1665 *

CHARLES the Second, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. WHEREAS, by our Letters Patents, bearing date the twenty-fourth day of March, in the

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* North Carolina Colonial Records, pp. 102–114.

[a] The remaining articles of the Concessions relate to the distribution of land, land titles, etc.

fifteenth year of our reign, We were graciously pleased to grant unto our right trusty and right well-beloved Cousin and Counsellor Edward Earl of Clarendon, our High Chancellor of England; our right trusty and entirely beloved Cousin and Counsellor George Duke of Albemarle, Master of our Horse; our right trusty and well-beloved William now Earl of Craven; our right trusty and well-beloved Counsellor John Lord Berkeley; our right trusty and well-beloved Counsellor Anthony Lord Ashley, Chancellor of our Exchequer; our right trusty and well-beloved Counsellor Sir George Carteret, Knight and Baronet, Vice-Chancellor of our Household; our right trusty and well-beloved Sir John Colleton, Knight and Baronet; and Sir William Berkeley, Knight; all that province, territory, or tract of ground, called Carolina, situate, lying and being within our dominions of America; extending from the north end of the island called Lucke-Island, which lieth in the Southern Virginia seas, and within thirty-six degrees of north latitude; and to the west, as far as the South-Seas; and so respectively as far as the river of Matthias, which bordereth upon the coast of Florida, and within thirty-one degrees of north latitude; and so west, in a direct line, as far as the South-Seas aforesaid.

Now Know ye, That We, at the humble request of the said grantees, in the aforesaid Letters Patents named, and as a further mark of our especial favour to them, we are graciously pleased to enlarge our said grant unto them, according to the bounds and limits hereafter specified, and in favour to the pious and noble purpose of the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkely, their heirs and asigns, all that province, territory or tract of land, situate, lying and being within our dominions of America aforesaid; extending north and eastward, as far as the north end of Currituck river or inlet, upon a strait westerly line to Wyonoak creek, which lies within or about the degrees of thirty-six and thirty minutes, northern latitude; and so west, in a direct line, as far as the South-Seas; and south and westward, as far as the degrees of twenty-nine, inclusive, of northern latitude; and so west, in a direct line, as far as the South-Seas; together with all and singular the ports, harbours, bays, rivers and inlets, belonging unto the province or territory aforesaid: And also, all the soils, lands, fields, woods, mountains, ferms, lakes, rivers, bays and islets, situate or being within the bounds or limits last before mentioned; with the fishings of all sorts of fish, whales, sturgeons, and all other royal fish, in the sea, bays, islets and rivers, within the premises, and the fish therein taken, together with the royalty of the sea upon the coast within the limits aforesaid; and moreover all veins, mines and quarries, as well discovered as not discovered, of gold, silver, gems and precious stones, metal, or any other thing, found, or to be found, within the province, territory, islets and limits aforesaid: And furthermore, the patronage and advowsons of all the churches and chapels, which, as Christian religion shall increase within the province, territory, isles, and limits aforesaid, shall happen hereafter to be erected; together with licence and power to build and found churches, chapels and oratories, in convenient and fit places, within the said bounds and limits; and to cause them to be dedicated and consecrated, according to the ecclesiastical laws of our kingdom

of England; together with all and singular the like and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, and franchises of what kind soever, within the territory, isles, islets and limits aforesaid: To have, hold, use, exercise, and enjoy the same, as amply, fully and in as ample manner, as any Bishop of Durham, in our kingdom of England, ever heretofore had, held, used, or enjoyed, or of right ought or could have, use, or enjoy: And them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkely, their heirs and assigns, we do, by these presents, for us, our heirs and successors, make, create, and constitute, the true and absolute Lords and Proprietors of the said province or territory, and of all other the premises; saving always the faith, allegiance, and sovereign dominion, due to us, our heirs and successors, for the same: To hold, possess, and enjoy the said province, territory, islets, and all and singular other the premises, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns forever; to be holden of us, our heirs and successors, as of our manor of East-Greenwich, in Kent, in free and common soccage, and not in capite, or by Knight's service: Yielding and paying, yearly, to us, our heirs and successors, for the same, the fourth part of all gold and silver ore, which, within the limits hereby granted, shall, from time to time, happen to be found, over and besides the yearly rent of twenty marks, and the fourth part of the gold and silver ore, in and by the said written Letters Patent reserved and payable.

AND that the province or territory hereby granted and described, may be dignified with as large tythes and privileges, as any other parts of our dominions and territories in that region; Know ye, That we, of our further grace, certain knowledge, and mere motion, have thought fit to annex the same tract of ground or territory unto the same province of Carolina; and out of the fullness of our royal power and prerogative, we do, for us, our heirs and successors, annex and unite the same to the said province of Carolina.

AND forasmuch as we have made and ordained the aforesaid Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs, and assigns, the true Lords and Proprietors of all the province or territory aforesaid; Know ye therefore moreover, That we, reposing especial trust and confidence in their fidelity, wisdom, justice, and provident circumspection, for us, our heirs and successors, do grant full and absolute power, by virtue of these presents, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, for the good and happy government of the said whole province or territory, full power and authority, to erect, constitute, and make several counties, baronnies, and colonies, of and within the said provinces, territories, lands, and hereditaments, in and by the said Letters Patent, granted, or mentioned to be granted, as aforesaid, with several and distinct jurisdictions, powers, liberties,

and privileges: And also, to ordain, make, and enact, and under their seals, to publish any laws and constitutions whatsoever, either appertaining to the public state of the whole province or territory, or of and distinct or particular county, baronny, or colony, or of or within the same, or to the private utility of particular persons, according to their best directions, by and with the advice, assent and approbation, of the freemen of the said province or territory, or of the freemen of the county, baronny, or colony, for which such law or constitution shall be made, or the greater part of them, or of their delegates or deputies, whom, for enacting of the said laws, when, and as often as need shall require, We will, that the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs or assigns, shall, from time to time, assemble in such manner and form as to them shall seem best; and the same laws duly to execute, upon all people within the said province or territory, county, baronny, or colony, or the limits thereof, for the time being, which shall be constituted, under the power, and government of them or any of them, either sailing towards the said province, or territory of Carolina, or returning from thence towards England, or any other of our, or foreign dominions, by imposition of penalties, imprisonment, or any other punishment; yea, if it shall be needful, and the quality of the offence require it, by taking away member and life, either by them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs, or by them, or their Deputies, Lieutenants, Judges, Justices, Magistrates, or officers, whatsoever, as well within the said province, as at sea, in such manner and form as unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs, shall seem most convenient: And also, to remit, release, pardon, and abolish, whether before judgment or after, all crimes and offences whatsoever against the said laws; and to do all and every thing and things, which, unto the compleat establishment of justice, unto courts, sessions, and forms of judicature, and manners of proceeding therein, do belong, although in these presents express mention is not made thereof; and by Judges to him or them delegated, to award process, hold pleas, and determine, in all the said courts and places of judicature, all actions, suits, and causes whatsoever, as well criminal as civil, real, mixt, personal, or of any other kind or nature whatsoever: Which laws so as aforesaid to be published, our pleasure is, and we do enjoin, require, and command, shall be absolutely firm and available in law; and that all the liege people of us, our heirs and successors, within the said province or territory, do observe and keep the same inviolably in those parts, so far as they concern them, under the pains and penalties therein expressed, or to be expressed: *Provided nevertheless*, That the said laws be consonant to reason, and as near as may be conveniently, agreeable to the laws and customs of this our realm of England.

AND because such assemblies of freeholders cannot be so suddenly called as there may be occasion to require the same, we do therefore,

by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, by themselves, or their magistrates, in that behalf lawfully authorised, full power and authority, from time to time, to make and ordain fit and wholesome orders and ordinances within the province or territory aforesaid, or any county, baronny, or province, within the same, to be kept and observed, as well for the keeping of the peace, as for the better government of the people there abiding, and to publish the same to all to whom it may concern: Which ordinances we do, by these presents, straitly charge and command to be inviolably observed within the same province, counties, territories, baronnies and provinces, under the penalties therein expressed; so as such ordinances be reasonable, and not repugnant or contrary, but as near as may be, agreeable to the laws and statutes of this our kingdom of England; and so as the same ordinances do not extend to the binding, charging, or taking away the right or interest of any person or persons, in their freehold, goods, or chattels, whatsoever.

AND to the end the said province or territory may be the more happily increased, by the multitude people resorting thither, and may likewise be the more strongly defended from the incursions of savages, and other enemies, pirates and robbers; therefore, we, for us, our heirs and successors, do give and grant, by these presents, full power, license and liberty, unto all the liege people of us, our heirs and successors, in our kingdom of England, and elsewhere, within any other our dominions, islands, colonies, or plantations, (excepting those who shall be especially forbidden) to transport themselves and families into the said province or territory, with convenient shipping and fitting provision; and there to settle themselves, dwell, and inhabit: Any law, act, statute, ordinance, or other thing, to the contrary notwithsanding.

AND we will also, and of our especial grace, for us, our heirs and successors, do straitly enjoin, ordain, constitute, and command, that the said province and territory shall be of our allegiance; and that all and singular the subjects and liege people of us, our heirs and successors, transported, or to be transported into the said province, and the children of them, and such as shall descend from them there born, or hereafter to be born be, and shall be denizens and lieges of us, our heirs and successors, of this our kingdom of England, and be in all things, held, treated, and reputed, as the liege faithful people of us, our heirs and successors, born within this our said kingdom, or any other of our dominions; and may inherit or otherwise purchase and receive, take, hold, buy and possess, any lands, tenements, or hereditaments, within the said places, and them may occupy and enjoy, sell, alien, and bequeath; as likewise, all liberties, franchises, and privileges, of this our kingdom, and of other our dominions aforesaid, may freely and quietly have, possess, and enjoy, as our liege people, born within the same, without the molestation, vexation, trouble, or grievance, of us, our heirs and successors: Any act, statute, ordinance, or provision, to the contrary, notwithstanding.

AND furthermore, that our subjects of this our said kingdom of England, and other our dominions, may be the rather encouraged to undertake this expedition, with ready and chearful means; Know

ye, That we, of our especial grace, certain knowledge, and mere motion, do give and grant, by virtue of these presents, as well to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs, as unto all others as shall, from time to time, repair unto the said province or territory, with a purpose to inhabit there, or to trade with the natives thereof; full liberty and licence, to lade and freight, in every port whatsoever, of us, our heirs and successors, and into the said province of Carolina, by them, their servants and assigns, to transport all and singular their goods, wares and merchandises; as likewise all sorts of grain whatsoever, and any other thing whatsoever, necessary for their food and clothing, not prohibited by the laws and statutes of our kingdom and dominions, to be carried out of the same, without any let or molestation of us, our heirs and successors, or of any other our officers or ministers whatsoever; saving also unto us, our heirs and successors, the customs and other duties and payments, due for the said wares and merchandises, according to the several rates of the places from whence the same shall be transported.

WE will also, and by these presents, for us, our heirs and successors, do give and grant licence by this our charter, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, and to all the inhabitants and dwellers in the province or territory aforesaid, both present and to come, full power and absolute authority, to import or unlade, by themselves or their servants, factors, or assigns, all merchandises and goods whatsoever that shall arise of the fruits and commodities of the said province or territory, either by land or sea, into any the ports of us, our heirs and successors, in our kingdom of England, Scotland, or Ireland, or otherwise to dispose of the said goods in the said ports; and, if need be, within one year next after the unlading, to lade the said merchandises and goods again into the same or other ships; and to export the same into any other countries, either of our dominions or foreign, being in amity with us, our heirs and successors, so as they pay such customs, subsidies and other duties, for the same, to us, our heirs and successors, as the rest of our subjects of this our kingdom, for the time being, shall be bound to pay; beyond which, we will not, that the inhabitants of the said province or territory, shall be any ways charged: *Provided nevertheless*, and our will and pleasure is, and we have further, for the considerations aforesaid, of our especial grace, certain knowledge, and mere motion, given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and free licence, power and authority, at any time or times, from and after the Feast of St. Michael the Archangel, which shall be in the year of our Lord Christ one thousand six hundred and sixty-seven, as well to import and bring into any of our dominions, from the said province of Carolina, or any part thereof, the several goods herein after mentioned; that is to say, silks, wines,

raisins, capers, wax, almonds, oil, and olives, without paying or answering to us, our heirs and successors, any custom, impost, or other duty, for or in respect thereof, for and during the term and space of seven years, to commence and be accounted from and after the importation of four tons of any of the said goods, in any one bottom, ship, or vessel, from the said province or territory, into any of our dominions; as also, to export, and carry out of any of our dominions, into the said province or territory, custom free, all sorts of tools which shall be useful or necessary for the planters there, in the accommodation and improvement of the premises: Any thing before in these presents contained, or any law, act, statute, prohibition, or other matter or thing, heretofore had, made, enacted, or provided, in any wise notwithstanding.

AND furthermore, of our more ample and especial grace, certain knowledge, and mere motion, we do, for us, our heirs and successors, grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and absolute power and authority, to make, erect, and constitute, within the said province or territory, and the isles and islets aforesaid, such and so many sea-ports, harbours, creeks, and other places, for discharge and unlading of goods and merchandises, out of ships, boats and other vessels, and for lading of them, in such and so many places, with such jurisdictions, privileges and franchises, unto the said ports belonging, as to them shall seem most expedient; and that all and singular the ships, boats and other vessels, which shall come for merchandises and trade into the said province or territory, or shall depart out of the same, shall be laden and unladen at such ports only as shall be erected and constituted by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, and not elsewhere: Any use, custom, or thing, to the contrary notwithstanding.

AND we do further will, appoint, and ordain, and by these presents, for us, our heirs, and successors, do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, may, from time to time, forever, have and enjoy the customs and subsidies, in the ports, harbours, creeks, and other places within the province aforesaid, payable for the goods, wares and merchandises there laded, or to be laded or unladed; the said customs to be reasonably assessed, upon any occasion, by themselves, and by and with the consent of the free people, or the greater part of them, as aforesaid; to whom we give power, by these presents, for us, our heirs and successors, upon just cause, and in due proportion, to assess and impose the same.

AND further, of our especial grace, certain knowledge, and mere motion, we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the

said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and absolute power, licence and authority, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, from time to time hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise, or enfeoff, the premises, or any part or parcel thereof, to him or them that shall be willing to purchase the same, and to such person and persons as they shall think fit; to have and to hold to them, the said person or persons, their heirs and assigns, in fee-simple, or in fee-tail, or for term of life or lives, or years; to be held of them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, by such rents, services and customs, as shall seem fit to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, and not of us, our heirs and successors: And to the same person and persons, and to all and every of them, we do give and grant, by these presents, for us, our heirs and successors, licence, authority and power, that such person or persons may have and take the premises, or any part thereof, of the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns; and the same to hold to themselves, their heirs and assigns, in what estate of inheritance soever, in fee-simple, or fee-tail, or otherwise, as to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, shall seem expedient; the statute in the Parliament of Edward, son of King Henry, heretofore King of England, our predecessor, commonly called the statute of *quia emptores terrarum*, or any other statute, act, ordinance, use, law, custom, or any other matter, cause or thing, heretofore published or provided to the contrary, in any-wise notwithstanding.

AND because many persons, born and inhabiting in the said province, for their deserts and services, may expect and be capable of marks of honour and favour, which, in respect of the great distance, cannot be conveniently conferred by us; our will and pleasure therefore is, and we do by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, full power and authority, to give and confer unto and upon such of the inhabitants of the said province or territory, as they shall think do or shall merit the same, such marks of favour and titles of honour, as they shall think fit; so as their titles

of honours be not the same as are enjoyed by or conferred upon any of the subjects of this our kingdom of England.

AND further also, we do, by these presents, for us, our heirs and successors, give and grant licence to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord of Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, full power, liberty and licence, to erect, raise and build, within the said province and places aforesaid, or any part or parts thereof, such and so many forts, fortresses, castles, cities, boroughs, towns, villages, and other fortifications whatsoever; and the same, or any of them, to fortify and furnish with ordnance, powder, shot, armour, and all other weapons, ammunition, and habiliments of war, both defensive and offensive, as shall be thought fit and convenient, for the safety and welfare of the said province and places, or any part thereof; and the same, or any of them, from time to time, as occasion shall require, to dismantle, disfurnish, demolish and pull down: And also to place, constitute and appoint, in or over all or any of the said castles, forts, fortifications, cities, towns, and places aforesaid, Governors, Deputy-Governors, Magistrates, Sheriffs, and other officers, civil and military, as to them shall seem meet: And to the said cities, boroughs, towns, villages, or any other place or places, within the said province or territory, to grant letters or charters of incorporation, with all liberties, franchises, and privileges, requisite or usual, or to or within this our kingdom of England granted or belonging; and in the same cities, boroughs, towns, and other places, to constitute, erect and appoint such and so many markets, marts, and fairs, as shall, in that behalf, be thought fit and necessary: And further also, to erect and make in the province or territory aforesaid, or any part thereof, so many manors, with such signories as to them shall seem meet and convenient; and in every of the same manors to have and to hold a Court-Baron, with all things whatsoever which to a Court-Baron do belong; and to have and to hold views of Frank-Pledge and Court-Leets, for the conservation of the peace and better government of those parts, with such limits, jurisdictions and precincts, as by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, or their heirs, shall be appointed for that purpose, with all things whatsoever which to a Court-Leet, or view of Frank-Pledge, do belong; the same courts to be holden by stewards, to be deputed and authorized by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, or their heirs, by the Lords of the manors and leets, for the time being, when the same shall be erected.

AND because that in so remote a country, and situate among so many barbarous nations, the invasions of savages and other enemies, pirates and robbers, may probably be feared; therefore, we have given, and for us, our heirs and successors, do give power by these presents, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony

Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, by themselves, or their Captains, or other officers, to levy, muster, and train up all sorts of men, of what condition soever, or wheresoever born, whether in the said province, or elsewhere, for the time being; and to make war, and pursue the enemies aforesaid, as well by sea, as by land; yea, even without the limits of the said province, and, by God's assistance, to vanquish, and take them; and being taken, to put them to death, by the law of war, and to save them at their pleasure, and to do all and every other thing, which to the charge and office of a Captain-General of an army, hath had the same.

ALSO, our will and pleasure is, and by this our charter, we do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full power, liberty, and authority, in case of rebellion, tumult, or sedition, (if any should happen, which God forbid) either upon the land within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by him and themselves, their Captains, Deputies, or officers, to be authorised under his or their seals, for that purpose; to whom also, for us, our heirs and successors, we do give and grant, by these presents, full power and authority, to exercise martial law against any mutinous and seditious persons of these parts; such as shall refuse to submit themselves to their government, or shall refuse to serve in the war, or shall fly to the enemy, or forsake their colours or ensigns, or be loiterers, or stragglers, or otherwise offending against law, custom, or military discipline; as freely and in as ample manner and form, as any Captain-General of an army, by virtue of his office, might or hath accustomed to use the same.

AND our further pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkely, their heirs and assigns, and to the tenants and inhabitants of the said province or territory, both present and to come, and to every of them, that the said province or territory, and the tenants and inhabitants thereof, shall not, from henceforth, be held or reputed any member or part of any colony whatsoever in America, or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on, or subject to their government in any thing, but be absolutely separated and divided from the same; and our pleasure is, by these presents, that they be separated, and that they be subject immediately to our Crown of England, as depending thereof, forever: And that the inhabitants of the said province or territory, nor any of them, shall, at any time hereafter, be compelled, or compellable, or be any ways subject or liable to appear or answer to any matter, suit, cause or plaint whatsoever, out of the province or territory aforesaid, in any other of our islands, colonies, or dominions in America, or elsewhere, other than in our realm of England, and dominion of Wales.

AND because it may happen that some of the people and inhabitants of the said province cannot, in their private opinions, conform to the public exercise of religion according to the liturgy, forms, and ceremonies of the Church of England, or take and subscribe the oaths and articles made and established in that behalf; and for that the same, by reason of the remote distances of those places, will, as we hope, be no breach of the unity and conformity established in this nation; our will and pleasure therefore is, and we do, by these presents, for us, our heirs and successors, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and free licence, liberty, and authority, by such ways and means as they shall think fit, to give and grant unto such person and persons, inhabiting and being within the said province or territory, hereby, or by the said recited Letters Patents mentioned to be granted as aforesaid, or any part thereof, such indulgences and dispensations, in that behalf, for and during such time and times, and with such limitations and restrictions, as they the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, shall, in their discretion, think fit and reasonable: And that no person or persons unto whom such liberty shall be given, shall be any way molested, punished, disquieted, or called in question, for any differences in opinion, or practice in matters of religious concernments, who do not actually disturb the civil peace of the province, county or colony, that they shall make their abode in: But all and every such person and persons may, from time to time, and at all times, freely and quietly have and enjoy his and their judgments and consciences, in matters of religion, throughout all the said province or colony, they behaving themselves peaceably, and not using this liberty to licentiousness, nor to the civil injury, or outward disturbance of others: Any law, statute, or clause, contained or to be contained, usage or custom of our realm of England, to the contrary hereof, in any-wise, notwithstanding.

AND in case it shall happen, that any doubts or questions shall arise, concerning the true sense and understanding of any word, clause, or sentence contained in this our present charter; we will, ordain, and command, that in all times, and in all things, such interpretations be made thereof, and allowed in all and every of our courts whatsoever, as lawfully may be adjudged most advantageous and favourable to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, although express mention, &c.

WITNESS Ourself, at Westminster, the thirtieth day of June, in the seventeenth year of our reign.

PER IPSUM REGEM.

THE FUNDAMENTAL CONSTITUTIONS OF CAROLINA—1669 * [a]

Our sovereign lord the King having, out of his royal grace and bounty, granted unto us the province of Carolina, with all the royalties, properties, jurisdictions, and privileges of a county palatine, as large and ample as the county palatine of Durham, with other great privileges; for the better settlement of the government of the said place, and establishing the interest of the lords proprietors with equality and without confusion; and that the government of this province may be made most agreeable to the monarchy under which we live and of which this province is a part; and that we may avoid erecting a numerous democracy, we, the lords and proprietors of the province aforesaid, have agreed to this following form of government, to be perpetually established amongst us, unto which we do oblige ourselves, our heirs and successors, in the most binding ways that can be devised.

One. The eldest of the lords proprietors shall be palatine; and, upon the decease of the palatine, the eldest of the seven surviving proprietors shall always succeed him.

Two. There shall be seven other chief offices erected, viz: the admirals, chamberlains, chancellors, constables, chief justices, high stewards, and treasurers; which places shall be enjoyed by none but the lords proprietors, to be assigned at first by lot; and, upon the vacancy of any one of the seven great offices, by death or otherwise, the eldest proprietor shall have his choice of the said place.

Three. The whole province shall be divided into counties; each county shall consist of eight signiories, eight baronies, and four precincts; each precinct shall consist of six colonies.

Four. Each signiory, barony, and colony shall consist of twelve thousand acres; the eight signiories being the share of the eight proprietors, and the eight baronies of the nobility; both which shares, being each of them one-fifth of the whole, are to be perpetually annexed, the one to the proprietors, the other to the hereditary nobility, leaving the colonies, being three-fifths, amongst the people; so that in setting out and planting the lands, the balance of the government may be preserved.

Five. At any time before the year one thousand seven hundred and one, any of the lords proprietors shall have power to relinquish, alienate, and dispose to any other person his proprietorship, and all the signiories, powers, and interest thereunto belonging, wholly and entirely together, and not otherwise. But after the year one thousand seven hundred, those who are then lords proprietors shall not have power to alienate or make over their proprietorship, with the signiories and privileges thereunto belonging, or any part thereof, to any person whatsoever, otherwise than in section eighteen; but it shall all descend unto their heirs male, and for want of heirs male, it shall all descend on that landgrave or cazique of Carolina who is descended

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* North Carolina Colonial Records, 187–205. Locke's Works, [Eighth Edition] X. 175.

[a] This form of government was framed by John Locke, author of the Essay on the Human Understanding, and amended by the Earl of Shaftesbury, previously known as Anthony Ashley Cooper. It was only partially put into operation, and it was abrogated by the lords proprietors in April, 1693.

of the next heirs female of the proprietor; and, for want of such heirs, it shall descend on the next heir general; and, for want of such heirs, the remaining seven proprietors shall, upon the vacancy, choose a landgrave to succeed the deceased proprietors, who, being chosen by the majority of the seven surviving proprietors, he and his heirs, successively shall be proprietors, as fully to all intents and purposes as any of the rest.

Six. That the number of eight proprietors may be constantly kept, if, upon the vacancy of any proprietorship, the seven surviving proprietors shall not choose a landgrave to be a proprietor before the second biennial parliament after the vacancy, then the next biennial parliament but one, after such vacancy, shall have power to choose any landgrave to be a proprietor.

Seven. Whosoever, after the year one thousand seven hundred, either by inheritance or choice, shall succeed any proprietor in his proprietorship, and signories thereunto belonging, shall be obliged to take the name and arms of that proprietor whom he succeeds; which from thenceforth shall be the name and arms of his family and their posterity.

Eight. Whatsoever landgrave or cazique shall any way come to be a proprietor, shall take the signiories annexed to the said proprietorship; but his former dignity, with the baronies annexed, shall devolve into the hands of the lords proprietors.

Nine. There shall be just as many landgraves as there are counties, and twice as many caziques, and no more. These shall be the hereditary nobility of the province, and by right of their dignity be members of parliament. Each landgrave shall have four baronies, and each cazique two baronies, hereditarily and unalterably annexed to and settled upon the said dignity.

Ten. The first landgrave and caziques of the twelve first counties to be planted shall be nominated thus, that is to say: of the twelve landgraves, the lords proprietors shall each of them, separately for himself, nominate and choose one; and the remaining four landgraves of the first twelve shall be nominated and chosen by the palatine's court. In like manner, of the twenty-four first caziques, each proprietor for himself shall nominate and choose two, and the remaining eight shall be nominated and chosen by the palatine's court; and when the twelve first counties shall be planted, the lords proprietors shall again in the same manner nominate and choose twelve more landgraves and twenty-four more caziques, for the next twelve counties to be planted; that is to say, two-thirds of each number by the single nomination of each proprietor for himself, and the remaining third by the joint election of the palatine's court, and so proceed in the same manner till the whole province of Carolina be set out and planted, according to the proportions in these fundamental constitutions.

Eleven. Any landgrave or cazique, at any time before the year one thousand seven hundred and one, shall have power to alienate, sell, or make over, to any other person, his dignity, with the baronies thereunto belonging, all entirely together. But after the year one thousand seven hundred, no landgrave or cazique shall have power to alienate, sell, make over, or let the hereditary baronies of his dignity, or any part thereof, otherwise than as in section eighteen; but they shall all entirely, with the dignity thereunto belonging, descend unto

his heirs male; and for want of heirs male, all entirely and undivided to the next heir general; and for want of such heirs, shall devolve into the hands of the lords proprietors.

Twelve. That the due number of landgraves and caziques may be always kept up, if, upon the devolution of any landgraveship or caziqueship, the palatine's court shall not settle the devolved dignity, with the baronies thereunto annexed, before the second biennial parliament after such devolution, the next biennial parliament but one after such devolution shall have power to make any one landgrave or cazique in the room of him who dying without heirs, his dignity and baronies devolved.

Thirteen. No one person shall have more than one dignity, with the signiories or baronies thereunto belonging. But whensoever it shall happen that any one who is already proprietor, landgrave, or cazique shall have any of these dignities descend to him by inheritance, it shall be at his choice to keep which of the dignities, with the lands annexed, he shall like best; but shall leave the other, with the lands annexed, to be enjoyed by him who, not being his heir apparent and certain successor to his present dignity, is next of blood.

Fourteen. Whosoever, by right of inheritance, shall come to be landgrave or cazique, shall take the name and arms of his predecessor in that dignity, to be from thenceforth the name and arms of his family and their posterity.

Fifteen. Since the dignity of proprietor, landgrave, or cazique cannot be divided, and the signiories or baronies thereunto annexed must forever all entirely descend with and accompany that dignity, whensoever, for want of heirs male, it shall descend on the issue female, the eldest daughter and her heirs shall be preferred, and in the inheritance of those dignities, and in the signiories or baronies annexed, there shall be no coheirs.

Sixteen. In every signiory, barony, and manor, the respective lord shall have power, in his own name, to hold court-leet there, for trying of all causes, both civil and criminal; but where it shall concern any person being no inhabitant, vassal, or leet-man of the said signiory, barony, or manor, he, upon paying down of forty shillings to the lords proprietors' use, shall have an appeal from the signiory or barony court to the county court, and from the manor court to the precinct court.

Seventeen. Every manor shall consist of not less than three thousand acres, and not above twelve thousand acres, in one entire piece and colony, but any three thousand acres or more in one piece, and the possession of one man, shall not be a manor, unless it be constituted a manor by the grant of the palatine's court.

Eighteen. The lords of signiories and baronies shall have power only of granting estates not exceeding three lives, or twenty-one years, in two-thirds of said signiories or baronies, and the remaining third shall be always demesne.

Nineteen. Any lord of a manor may alienate, sell, or dispose to any other person and his heirs forever, his manor, all entirely together, with all the privileges and leet-men thereunto belonging, so far forth as any colony lands; but no grant of any part thereof, either in fee, or for any longer term than three lives, or one-and-twenty years, shall stand good against the next heir.

Twenty. No manor, for want of issue male, shall be divided amongst coheirs; but the manor, if there be but one, shall all entirely descend to the eldest daughter and her heirs. If there be more minors than one, the eldest daughter first shall have her choice, the second next, and so on, beginning again at the eldest, until all the manors be taken up; that so the privileges which belong to manors being indivisible, the lands of the manors, to which they are annexed, may be kept entire and the manor not lose those privileges which, upon parcelling out to several owners, must necessarily cease.

Twenty-one. Every lord of a manor, within his own manor, shall have all the rights, powers, jurisdictions, and privileges which a landgrave or cazique hath in his baronies.

Twenty-two. In every signiory, barony, and manor, all the leet-men shall be under the jurisdiction of the respective lords of the said signiory, barony, or manor, without appeal from him. Nor shall any leet-man or leet-woman have liberty to go off from the land of their particular lord and live anywhere else, without license obtained from their said lord, under hand and seal.

Twenty-three. All the children of leet-men shall be leet-men, and so to all generations.

Twenty-four. No man shall be capable of having a court-leet or leet-men but a proprietor, landgrave, cazique, or lord of a manor.

Twenty-five. Whoever shall voluntarily enter himself a leet-man in the registry of the county court, shall be a leet-man.

Twenty-six. Whoever is lord of leet-men, shall, upon the marriage of a leet-man or leet-woman of his, give them ten acres of land for their lives; they paying to him therefor not more than one-eighth part of all the yearly produce and growth of the said ten acres.

Twenty-seven. No landgrave or cazique shall be tried for any criminal cause in any but the chief justice's court, and that by a jury of his peers.

Twenty-eight. There shall be eight supreme courts. The first called the palatine's court, consisting of the palatine and the other seven proprietors. The other seven courts of the other seven great officers, shall consist each of them of a proprietor, and six councillors added to him. Under each of these latter seven courts shall be a college of twelve assistants. The twelve assistants of the several colleges shall be chosen, two out of the landgraves, caziques, or eldest sons of the proprietors, by the palatine's court; two out of the landgraves by the landgraves' chamber; two out of the caziques by the caziques' chamber; four more of the twelve shall be chosen by the commons' chamber, out of such as have been or are members of parliament, sheriffs, or justices of the county court, or the younger sons of proprietors, or the eldest sons of landgraves or caziques; the two others shall be chosen by the palatine's court, out of the same sort of persons out of which the commons' chamber is to choose.

Twenty-nine. Out of these colleges shall be chosen at first, by the palatine's court, six councillors, to be joined with each proprietor in his court; of which six one shall be of those who were chosen into any of the colleges by the palatine's court, out of the landgraves, caziques, or eldest sons of proprietors; one out of those who were chosen by the landgraves' chamber; one out of those who were chosen by the caziques' chamber; two out of those who were chosen by the commons'

chamber; and one out of those who were chosen by the palatine's court, out of the proprietors' younger sons, or eldest sons of landgraves, caziques, or commons, qualified as aforesaid.

Thirty. When it shall happen that any councillor dies, and thereby there is a vacancy, the grand council shall have power to remove any councillor that is willing to be removed out of any of the proprietors' courts, to fill up the vacancy; provided they take a man of the same degree and choice the other was of, whose place is to be filled up. But if no councillor consent to be removed, or upon such remove, the last remaining vacant place, in any of the proprietors' courts, shall be filled up by the choice of the grand council, who shall have power to remove out of any of the colleges any assistant, who is of the same degree and choice that that councillor was of into whose vacant place he is to succeed. The grand council also have power to remove any assistant, that is willing, out of one college into another, provided he be of the same degree and choice. But the last remaining vacant place in any college shall be filled up by the same choice, and out of the same degree of persons the assistant was of who is dead or removed. No place shall be vacant in any proprietor's court above six months. No place shall be vacant in any college longer than the next session of parliament.

Thirty-one. No man, being a member of the grand council, or of any of the seven colleges, shall be turned out but for misdemeanor, of which the grand council shall be judge; and the vacancy of the person so put out shall be filled, not by the election of the grand council, but by those who first chose him, and out of the same degree he was of who is expelled. But it is not hereby to be understood that the grand council hath any power to turn out any one of the lords proprietors or their deputies, the lords proprietors having in themselves an inherent original right.

Thirty-two. All elections in the parliament, in the several chambers of the parliament, and in the grand council, shall be passed by balloting.

Thirty-three. The palatine's court shall consist of the palatine and seven proprietors, wherein nothing shall be acted without the presence and consent of the palatine or his deputy, and three other of the proprietors or their deputies. This court shall have power to call parliaments, to pardon all offences, to make elections of all officers in the proprietor's dispose, and to nominate and appoint port towns; and also shall have power by their order to the treasurer to dispose of all public treasure, excepting money granted by the parliament, and by them directed to some particular public use; and also shall have a negative upon all acts, orders, votes, and judgments of the grand council and the parliament, except only as in sections six and twelve; and shall have all the powers granted to the lords proprietors, by their patent from our sovereign lord the King, except in such things as are limited by these fundamental constitutions.

Thirty-four. The palatine himself, when he in person shall be either in the army or any of the proprietors' courts, shall then have the power of general, or of that proprietor in whose court he is then present, and the proprietor, in whose court the palatine then presides, shall, during his presence there, be but as one of the council.

Thirty-five. The councillor's court, consisting of one of the proprietors, and his six councillors, who shall be called vice-chancellors, shall have the custody of the seal of the palatine, under which charters of lands, or otherwise, commissions and grants of the palatine's court shall pass. And it shall not be lawful to put the seal of the palatinate to any writing which is not signed by the palatine or his deputy and three other proprietors or their deputies. To this court also belong all state matters, despatches, and treaties with the neighbor Indians. To this court also belong all invasions of the law, of liberty of conscience, and all invasions of the public peace, upon pretence of religion, as also the license of printing. The twelve assistants belonging to this court shall be called recorders.

Thirty-six. Whatever passes under the seal of the palatinate, shall be registered in the proprietor's court to which the matter therein contained belongs.

Thirty-seven. The chancellor or his deputy shall be always speaker in parliament, and president of the grand council, and, in his and his deputy's absence, one of the vice-chancellors.

Thirty-eight. The chief justice's court, consisting of one of the proprietors and his six councillors, who shall be called justices of the bench, shall judge all appeals in cases both civil and criminal, except all such cases as shall be under the jurisdiction and cognizance of any other of the proprietor's courts, which shall be tried in those courts respectively. The government and regulation of registries of writings and contracts shall belong to the jurisdiction of this court. The twelve assistants of this court shall be called masters.

Thirty-nine. The constable's court, consisting of one of the proprietors and his six councillors, who shall be called marshals, shall order and determine of all military affairs by land, and all land-forces, arms, ammunition, artillery, garrisons, forts, &c., and whatever belongs unto war. His twelve assistants shall be called lieutenant-generals.

Forty. In time of actual war the constable, while he is in the army, shall be general of the army, and the six councillors, or such of them as the palatine's court shall for that time or service appoint, shall be the immediate great officers under him, and the lieutenant-generals next to them.

Forty-one. The admiral's court, consisting of one of the proprietors and his six councillors, called consuls, shall have the care and inspection over all ports, moles, and navigable rivers, so far as the tide flows, and also all the public shipping of Carolina, and stores thereunto belonging, and all maritime affairs. This court also shall have the power of the court of admiralty; and shall have power to constitute judges in port-towns to try cases belonging to law-merchant, as shall be most convenient for trade. The twelve assistants belonging to this court shall be called proconsuls.

Forty-two. In time of actual war, the admiral, whilst he is at sea, shall command in chief, and his six councillors, or such of them as the palatine's court shall for that time or service appoint, shall be the immediate great officers under him, and the proconsuls next to them.

Forty-three. The treasurer's court, consisting of a proprietor and his six councillors, called under-treasurers, shall take care of all matters that concern the public revenue and treasury. The twelve assistants shall be called auditors.

Forty-four. The high steward's court, consisting of a proprietor and his six councillors, called comptrollers, shall have the care of all foreign and domestic trade, manufactures, public buildings, workhouses, highways, passages by water above the flood of the tide, drains, sewers, and banks against inundation, bridges, posts, carriers, fairs, markets, corruption or infection of the common air or water, and all things in order to the public commerce and health; also setting out and surveying of lands; and also setting out and appointing places for towns to be built on in the precincts, and the prescribing and determining the figure and bigness of the said towns, according to such models as the said court shall order; contrary or differing from which models it shall not be lawful for any one to build in any town. This court shall have power also to make any public building, or any new highway, or enlarge any old highway, upon any man's land whatsoever; as also to make cuts, channels, banks, locks, and bridges, for making rivers navigable, or for draining fens, or any other public use. The damage the owner of such lands (on or through which any such public things shall be made) shall receive thereby shall be valued, and satisfaction made by such ways as the grand council shall appoint. The twelve assistants belonging to this court shall be called surveyors.

Forty-five. The chamberlain's court, consisting of a proprietor and six councillors, called vice-chamberlains, shall have the care of all ceremonies, precedency, heraldry, reception of public messengers, pedigrees, the registry of all births, burials, and marriages, legitimation, and all cases concerning matrimony, or arising from it; and shall also have power to regulate all fashions, habits, badges, games, and sports. To this court it shall also belong to convocate the grand council. The twelve assistants belonging to this court shall be called provosts.

Forty-six. All causes belonging to or under the jurisdiction of any of the proprietors' courts, shall in them respectively be tried, and ultimately determined, without any further appeal.

Forty-seven. The proprietors' courts have a power to mitigate all fines and suspend all execution in criminal causes, either before or after sentence, in any of the other inferior courts respectively.

Forty-eight. In all debates, hearings, or trials, in any of the proprietors' courts, the twelve assistants belonging to the said courts, respectively, shall have liberty to be present, but shall not interpose, unless their opinions be required, nor have any vote at all; but their business shall be, by the direction of the respective courts, to prepare such business as shall be committed to them; as also to bear such offices, and despatch such affairs, either where the court is kept or elsewhere, as the court shall think fit.

Forty-nine. In all the proprietors' courts, the proprietor, and any three of his councillors, shall make a quorum: *Provided*, *always*, That for the better despatch of business, it shall be in the power of the palatine's court to direct what sort of causes shall be heard and determined by a quorum of any three.

Fifty. The grand council shall consist of the palatine and seven proprietors, and the forty-two councillors of the several proprietors' courts, who shall have power to determine any controversy that may arise between any of the proprietors' courts, about their respective jurisdictions, or between the members of the same court, about their

manner and methods of proceedings; to make peace and war, leagues, treaties, &c., with any of the neighbor Indians; to issue out their general orders to the constable's and admiral's courts, for the raising, disposing, or disbanding the forces, by land or by sea.

Fifty-one. The grand council shall prepare all matters to be proposed in parliament. Nor shall any matter whatsoever be proposed in parliament, but what has first passed the grand council; which, after having been read three several days in the parliament, shall by majority of votes be passed or rejected.

Fifty-two. The grand council shall always be judges of all causes and appeals that concern the palatine, or any of the lords proprietors, or any councillor of any proprietor's court, in any cause, which should otherwise have been tried in the court of which the said councillor is judge himself.

Fifty-three. The grand council, by their warrants to the treasurer's court, shall dispose of all the money given by the parliament, and by them directed to any particular public use.

Fifty-four. The quorum of the grand council shall be thirteen, whereof a proprietor or his deputy shall be always one.

Fifty-five. The grand council shall meet the first Tuesday in every month, and as much oftener as either they shall think fit, or they shall be convocated by the chamberlain's court.

Fifty-six. The palatine, or any of the lords proprietors, shall have power, under hand and seal, to be registered in the grand council, to make a deputy, who shall have the same power to all intents and purposes as he himself who deputes him; except in confirming acts of parliament, as in section seventy-six, and except also in nominating and choosing landgraves and caziques, as in section ten. All such deputations shall cease and determine at the end of four years, and at any time shall be revocable at the pleasure of the deputator.

Fifty-seven. No deputy of any proprietor shall have any power whilst the deputator is in any part of Carolina, except the proprietor whose deputy he is be a minor.

Fifty-eight. During the minority of any proprietor, his guardian shall have power to constitute and appoint his deputy.

Fifty-nine. The eldest of the lords proprietors, who shall be personally in Carolina, shall of course be the palatine's deputy, and if no proprietor be in Carolina, he shall choose his deputy out of the heirs apparent of any of the proprietors, if any such be there; and if there be no heir apparent of any of the lords proprietors above one-and-twenty years old in Carolina, then he shall choose for deputy any one of the landgraves of the grand council; till he have by deputation under hand and seal chosen any one of the forementioned heirs apparent or landgraves to be his deputy, the eldest man of the landgraves, and, for want of a landgrave, the eldest man of the caziques, who shall be personally in Carolina, shall of course be his deputy.

Sixty. Each proprietor's deputy shall be always one of his six councillors, respectively; and in case any of the proprietors hath not, in his absence out of Carolina, a deputy, commissioned under his hand and seal, the eldest nobleman of his court shall of course be his deputy.

Sixty-one. In every county there shall be a court, consisting of a sheriff, and four justices of the county, for every precinct one. The sheriff shall be an inhabitant of the county, and have at least five

hundred acres of freehold within the said county; and the justices shall be inhabitants, and have each of them five hundred acres apiece freehold within the precinct for which they serve respectively. These five shall be chosen from time to time and commissioned by the palatine's court.

Sixty-two. For any personal causes exceeding the value of two hundred pounds sterling, or in title of land, or in any criminal cause, either party upon paying twenty pounds sterling to the lords proprietors' use, shall have liberty of appeal from the county court unto the respective proprietor's court.

Sixty-three. In every precinct there shall be a court, consisting of a steward and four justices of the precinct, being inhabitants and having three hundred acres of freehold within the said precinct, who shall judge all criminal causes; except for treason, murder, and any other offences punishable with death, and except all criminal causes of the nobility; and shall judge also all civil causes whatsoever; and in all personal actions not exceeding fifty pounds sterling, without appeal; but where the cause shall exceed that value, or concern a title of land, and in all criminal causes, there either party, upon paying five pounds sterling to the lords proprietors' use, shall have liberty of appeal to the county court.

Sixty-four. No cause shall be twice tried in any one court, upon any reason or pretence whatsoever.

Sixty-five. For treason, murder, and all other offences punishable with death, there shall be a commission, twice a year at least, granted unto one or more members of the grand council or colleges; who shall come as itinerant judges to the several counties, and with the sheriff and four justices shall hold assizes to judge all such causes; but, upon paying of fifty pounds sterling to the lords proprietors' use, there shall be liberty of appeal to the respective proprietor's court.

Sixty-six. The grand jury at the several assizes shall, upon their oaths, and under their hands and seals, deliver in to their itinerant judges a presentment of such grievances, misdemeanors, exigencies, or defects, which they think necessary for the public good of the country; which presentments shall, by the itinerant judges, at the end of their circuit, be delivered in to the grand council at their next sitting. And whatsoever therein concerns the execution of laws already made, the several proprietors' courts, in the matters belonging to each of them, respectively, shall take cognizance of it, and give such order about it as shall be effectual for the due execution of the laws. But whatever concerns the making of any new law, shall be referred to the several respective courts to which that matter belongs, and be by them prepared and brought to the grand council.

Sixty-seven. For terms, there shall be quarterly such a certain number of days, not exceeding one-and-twenty at any one time, as the several respective courts shall appoint. The time for the beginning of the term, in the precinct court, shall be the first Monday in January, April, July, and October; in the county court, the first Monday in February, May, August, and November; and in the proprietors' courts the first Monday in March, June, September, and December.

Sixty-eight. In the precinct court no man shall be a juryman under fifty acres of freehold. In the county court, or at the assizes, no man shall be a grand-juryman under three hundred acres of

freehold; and no man shall be a petty-juryman under two hundred acres of freehold. In the proprietors' courts no man shall be a juryman under five hundred acres of freehold.

Sixty-nine. Every jury shall consist of twelve men; and it shall not be necessary they should all agree, but the verdict shall be according to the consent of the majority.

Seventy. It shall be a base and vile thing to plead for money or reward; nor shall any one (except he be a near kinsman, not farther off than cousin-german to the party concerned) be permitted to plead another man's cause, till, before the judge in open court, he hath taken an oath that he doth not plead for money or reward, nor hath nor will receive, nor directly nor indirectly bargained with the party whose cause he is going to plead, for money or any other reward for pleading his cause.

Seventy-one. There shall be a parliament, consisting of the proprietors or their deputies, the landgraves, and caziques, and one freeholder out of every precinct, to be chosen by the freeholders of the said precinct, respectively. They shall sit all together in one room, and have every member one vote.

Seventy-two. No man shall be chosen a member of parliament who has less than five hundred acres of freehold within the precinct for which he is chosen; nor shall any have a vote in choosing the said member that hath less than fifty acres of freehold within the said precinct.

Seventy-three. A new parliament shall be assembled the first Monday of the month of November every second year, and shall meet and sit in the town they last sat in, without any summons, unless by the palatine's court they be summoned to meet at any other place. And if there shall be any occasion of a parliament in these intervals, it shall be in the power of the palatine's court to assemble them in forty days' notice, and at such time and place as the said court shall think fit; and the palatine's court shall have power to dissolve the said parliament when they shall think fit.

Seventy-four. At the opening of every parliament, the first thing that shall be done shall be the reading of these fundamental constitutions, which the palatine and proprietors, and the rest of the members then present, shall subscribe. Nor shall any person whatsoever sit or vote in the parliament till he hath that session subscribed these fundamental constitutions, in a book kept for that purpose by the clerk of the parliament.

Seventy-five. In order to the due election of members for the biennial parliament, it shall be lawful for the freeholders of the respective precincts to meet the first Tuesday in September every two years, in the same town or place that they last met in, to choose parliament men; and there choose those members that are to sit the next November following, unless the steward of the precinct shall, by sufficient notice thirty days before, appoint some other place for their meeting in order to the election.

Seventy-six. No act or order of parliament shall be of any force, unless it be ratified in open parliament, during the same session, by the palatine or his deputy, and three more of the lords proprietors or their deputies; and then not to continue longer in force but until the next biennial parliament, unless in the mean time it be ratified under the hands and seals of the palatine himself, and three more of

the lords proprietors themselves, and by their order published at the next biennial parliament.

Seventy-seven. Any proprietor or his deputy may enter his protestation against any act of the parliament, before the palatine or his deputy's consent be given as aforesaid, if he shall conceive the said act to be contrary to this establishment, or any of these fundamental constitutions of the government. And in such case, after full and free debate, the several estates shall retire into four several chambers; the palatine and proprietors into one; the landgraves into another; the caziques into another; and those chosen by the precincts into a fourth; and if the major part of any of the four estates shall vote that the law is not agreeable to this establishment, and these fundamental constitutions of the government, then it shall pass no farther, but be as if it had never been proposed.

Seventy-eight. The quorum of the parliament shall be one-half of those who are members and capable of sitting in the house that present session of parliament. The quorum of each of the chambers of parliament shall be one-half of the members of that chamber.

Seventy-nine. To avoid multiplicity of laws, which by degrees always change the right foundations of the original government, all acts of parliament whatsoever, in whatsoever form passed or enacted, shall, at the end of a hundred years after their enacting, respectively cease and determine of themselves, and without any repeal become null and void, as if no such acts or laws had ever been made.

Eighty. Since multiplicity of comments, as well as of laws, have great inconveniencies, and serve only to obscure and perplex, all manner of comments and expositions on any part of these fundamental constitutions, or on any part of the common or statute laws of Carolina, are absolutely prohibited.

Eighty-one. There shall be a registry in every precinct, wherein shall be enrolled all deeds, leases, judgments, mortgages, and other conveyances, which may concern any of the lands within the said precinct; and all such conveyances not so entered and registered shall not be of force against any person or party to the said contract or conveyance.

Eighty-two. No man shall be register of any precinct who hath not at least three hundred acres of freehold within the said precinct.

Eighty-three. The freeholders of every precinct shall nominate three men; out of which three the chief justice's court shall choose and commission one to be register of the said precinct, whilst he shall well behave himself.

Eighty-four. There shall be a registry in every signiory, barony, and colony, wherein shall be recorded all the births, marriages, and deaths that shall happen within the respective signiories, baronies, and colonies.

Eighty-five. No man shall be register of a colony that hath not above fifty acres of freehold within the said colony.

Eighty-six. The time of every one's age, that is born in Carolina, shall be reckoned from the day that his birth is entered in the registry, and not before.

Eighty-seven. No marriage shall be lawful, whatever contract and ceremony they have used, till both the parties mutually own it before the register of the place where they were married, and he register it, with the names of the father and mother of each party.

Eighty-eight. No man shall administer to the goods, or have a right to them, or enter upon the estate of any person deceased, till his death be registered in the respective registry.

Eighty-nine. He that doth not enter in the respective registry the birth or death of any person that is born or dies in his house or ground, shall pay to the said register one shilling per week for each such neglect, reckoning from the time of each birth or death, respectively, to the time of entering it in the register.

Ninety. In like manner, the births, marriages, and deaths of the lords proprietors, landgraves, and caziques shall be registered in the chamberlain's court.

Ninety-one. There shall be in every colony one constable, to be chosen annually, by the freeholders of the colony; his estate shall be above a hundred acres of freehold within the said colony, and such subordinate officers appointed for his assistance as the county court shall find requisite, and shall be established by the said county court. The election of the subordinate annual officers shall be also in the freeholders of the colony.

Ninety-two. All towns incorporate shall be governed by a mayor, twelve aldermen, and twenty-four of the common council. The said common council shall be chosen by the present householders of the said town; the aldermen shall be chosen out of the common council; and the mayor out of the aldermen, by the palatine's court.

Ninety-three. It being of great consequence to the plantation that port-towns should be built and preserved; therefore, whosoever shall lade or unlade any commodity at any other place than a port-town, shall forfeit to the lords proprietors, for each ton so laden or unladen, the sum of ten pounds sterling; except only such goods as the palatine's court shall license to be laden or unladen elsewhere.

Ninety-four. The first port-town upon every river shall be in a colony, and be a port-town forever.

Ninety-five. No man shall be permitted to be a freeman of Carolina, or to have any estate or habitation within it, that doth not acknowledge a God; and that God is publicly and solemnly to be worshipped.

Ninety-six. [As the country comes to be sufficiently planted and distributed into fit divisions, it shall belong to the parliament to take care for the building of churches, and the public maintenance of divines, to be employed in the exercise of religion, according to the Church of England; which being the only true and orthodox, and the national religion of all the King's dominions, is so also of Carolina; and, therefore, it alone shall be allowed to receive public maintenance, by grant of parliament.][a]

Ninety-seven. But since the natives of that place, who will be concerned in our plantation, are utterly strangers to Christianity, whose idolatry, ignorance, or mistake gives us no right to expel or use them ill; and those who remove from other parts to plant there will unavoidably be of different opinions concerning matters of religion, the liberty whereof they will expect to have allowed them, and it will not be reasonable for us, on this account, to keep them out, that civil

[a] This article was not drawn up by Mr. Locke, but inserted by some of the chief of the proprietors, against his judgment; as Mr. Locke himself informed one of his friends, to whom he presented a copy of these constitutions.

peace may be maintained amidst diversity of opinions, and our agreement and compact with all men may be duly and faithfully observed; the violation whereof, upon what pretence soever, cannot be without great offence to Almighty God, and great scandal to the true religion which we profess; and also that Jews, heathens, and other dissenters from the purity of Christian religion may not be scared and kept at a distance from it, but, by having an opportunity of acquainting themselves with the truth and reasonableness of its doctrines, and the peaceableness and inoffensiveness of its professors, may, by good usage and persuasion, and all those convincing methods of gentleness and meekness, suitable to the rules and design of the gospel, be won ever to embrace and unfeignedly receive the truth; therefore, any seven or more persons agreeing in any religion, shall constitute a church or profession, to which they shall give some name, to distinguish it from others.

Ninety-eight. The terms of admittance and communion with any church or profession shall be written in a book, and therein be subscribed by all the members of the said church or profession; which book shall be kept by the public register of the precinct wherein they reside.

Ninety-nine. The time of every one's subscription and admittance shall be dated in the said book or religious record.

One hundred. In the terms of communion of every church or profession, these following shall be three; without which no agreement or assembly of men, upon pretence of religion, shall be accounted a church or profession within these rules:

1st. "That there is a God."

II. "That God is publicly to be worshipped."

III. "That it is lawful and the duty of every man, being thereunto called by those that govern, to bear witness to truth; and that every church or profession shall, in their terms of communion, set down the external way whereby they witness a truth as in the presence of God, whether it be by laying hands on or kissing the bible, as in the Church of England, or by holding up the hand, or any other sensible way."

One hundred and one. No person above seventeen years of age shall have any benefit or protection of the law, or be capable of any place of profit or honor, who is not a member of some church or profession, having his name recorded in some one, and but one religious record at once.

One hundred and two. No person of any other church or profession shall disturb or molest any religious assembly.

One hundred and three. No person whatsoever shall speak anything in their religious assembly irreverently or seditiously of the government or governors, or of state matters.

One hundred and four. Any person subscribing the terms of communion, in the record of the said church or profession, before the precinct register, and any five members of the said church or profession, shall be thereby made a member of the said church or profession.

One hundred and five. Any person striking out his own name out of any religious record, or his name being struck out by any officer thereunto authorized by each church or profession respectively, shall cease to be a member of that church or profession.

One hundred and six. No man shall use any reproachful, reviling, or abusive language against any religion of any church or profession; that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth, by engaging them in quarrels and animosities, to the hatred of the professors and that profession which otherwise they might be brought to assent to.

One hundred and seven. Since charity obliges us to wish well to the souls of all men, and religion ought to alter nothing in any man's civil estate or right, it shall be lawful for slaves, as well as others, to enter themselves, and be of what church or profession any of them shall think best, and, therefore, be as fully members as any freeman. But yet no slave shall hereby be exempted from that civil dominion his master hath over him, but be in all things in the same state and condition he was in before.

One hundred and eight. Assemblies, upon what pretence soever of religion, not observing and performing the above said rules, shall not be esteemed as churches, but unlawful meetings, and be punished as other riots.

One hundred and nine. No person whatsover shall disturb, molest, or persecute another for his speculative opinions in religion, or his way of worship.

One hundred and ten. Every freeman of Carolina shall have absolute power and authority over his negro slaves, of what opinion or religion soever.

One hundred and eleven. No cause, whether civil or criminal, of any freeman, shall be tried in any court of judicature, without a jury of his peers.

One hundred and twelve. No person whatever shall hold or claim any land in Carolina by purchase or gift, or otherwise, from the natives, or any other whatsoever, but merely from and under the lords proprietors, upon pain of forfeiture of all his estate, movable or immovable, and perpetual banishment.

One hundred and thirteen. Whosoever shall possess any freehold in Carolina, upon what title or grant soever, shall, at the farthest, from and after the year one thousand six hundred and eighty-nine, pay yearly unto the lords proprietors, for each acre of land, English measure, as much fine silver as is at this present time in one English penny, or the value thereof, to be as a chief rent and acknowledgment to the lords proprietors, their heirs and successors, forever. And it shall be lawful for the palatine's court, by their officers, at any time to take a new survey of any man's land, not to oust him of any part of his possession, but that by such a survey the just number of acres he possesseth may be known, and the rent thereon due may be paid by him.

One hundred and fourteen. All wrecks, mines, minerals, quarries of gems, and precious stones, with pearl-fishing, whale-fishing, and one-half of all ambergris, by whomsoever found, shall wholly belong to the lords proprietors.

One hundred and fifteen. All revenues and profits belonging to the lords proprietors in common shall be divided into ten parts, whereof the palatine shall have three, and each proprietor one; but if the palatine shall govern by a deputy, the deputy shall have one of those three-tenths, and the palatine the other two-tenths.

One hundred and sixteen. All inhabitants and freemen of Carolina above seventeen years of age, and under sixty, shall be bound to bear arms and serve as soldiers, whenever the grand council shall find it necessary.

One hundred and seventeen. A true copy of these fundamental constitutions shall be kept in a great book by the register of every precinct, to be subscribed before the said register. Nor shall any person, of what degree or condition soever, above seventeen years old, have any estate or possession in Carolina, or protection or benefit of the law there, who hath not, before a precinct register, subscribed these fundamental constitutions in this form:

"I, A. B., do promise to bear faith and true allegiance to our sovereign lord King Charles II, his heirs and successors; and will be true and faithful to the palatine and lords proprietors of Carolina, their heirs and successors; and with my utmost power will defend them, and maintain the government according to this establishment in these fundamental constitutions."

One hundred and eighteen. Whatsoever alien shall, in this form, before any precinct register, subscribe these fundamental constitutions, shall be thereby naturalized.

One hundred and nineteen. In the same manner shall every person, at his admittance into any office, subscribe these fundamental constitutions.

One hundred and twenty. These fundamental constitutions, in number a hundred and twenty, and every part thereof, shall be and remain the sacred and unalterable form and rule of government of Carolina forever. Witness our hands and seals, the first day of March, sixteen hundred and sixty-nine.

THE MECKLENBURGH RESOLUTIONS—1775 *[a]

I. *Resolved:* That whosoever directly or indirectly abets, or in any way, form, or manner countenances the unchartered and dangerous invasion of our rights, as claimed by Great Britain, is an enemy to this country—to America—and to the inherent and inalienable rights of man.

II. *Resolved:* That we do hereby declare ourselves a free and independent people; are, and of right ought to be a sovereign and self-governing association, under the control of no power, other than that of our God and the General Government of the Congress: To the maintainance of which Independence we solemnly pledge to each other our mutual co-operation, our Lives, our Fortunes, and our most Sacred Honor.

III. *Resolved:* That as we acknowledge the existence and control of no law or legal officer, civil or military, within this county, we do hereby ordain and adopt as a rule of life, all, each, and every

* Address of the Hon. William A. Graham, On the Mecklenburgh Declaration of Independence, * * * with Accompanying Documents. New York (E. J. Hale & Sons, publishers) 1875. 167 pp.

[a] This declaration of independence (with a supplementary set of resolutions establishing a form of government) was adopted (as it is claimed) by a convention of delegates from different sections of Mecklenburgh County, which assembled at Charlotte May 20, 1775.

one of our former laws, wherein, nevertheless, the Crown of Great Britain never can be considered as holding rights, privileges, or authorities therein.

IV. *Resolved:* That all, each, and every Military Officer in this country is hereby reinstated in his former command and authority, he acting conformably to their regulations, and that every Member present of this Delegation, shall henceforth be a Civil Officer, viz: a Justice of the Peace, in the character of a Committee Man, to issue process, hear and determine all matters of controversy, according to said adopted laws, and to preserve Peace, Union, and Harmony in said county, to use every exertion to spread the Love of Country and Fire of Freedom throughout America, until a more general and organized government be established in this Province.

ABRAHAM ALEXANDER, *Chairman.*

JOHN MCKNITT ALEXANDER, *Secretary.*

CONSTITUTION OF NORTH CAROLINA—1776 * [a]

A DECLARATION OF RIGHTS, &C.

I. That all political power is vested in and derived from the people only.

II. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

III. That no man or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.

IV. That the legislative, executive, and supreme judicial powers of government, ought to be forever separate and distinct from each other.

V. That all powers of suspending laws, or the execution of laws, by any authority, without consent of the Representatives of the people, is injurious to their rights, and ought not to be exercised.

VI. That elections of members, to serve as Representatives in General Assembly, ought to be free.

VII. That, in all criminal prosecutions, every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.

VIII. That no freeman shall be put to answer any criminal charge, but by indictment, presentment, or impeachment.

IX. That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court, as heretofore used.

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* Verified from "The Proceedings and Debates of the Convention of North-Carolina, called to amend the Constitution of the State, which assembled at Raleigh, June 4, 1835. To which are subjoined the Convention act and the Amendments to the Constitution together with the votes of the People. Raleigh: Printed by Joseph Gales and Son, 1836." Appendix, pp. 409–424.

[a] This constitution was framed by a "Congress," "elected and chosen for that particular purpose," which assembled at Halifax November 12, 1776, and completed its labors December 18, 1776. It was not submitted to the people for ratification.

X. That excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

XI. That general warrants—whereby an officer or messenger may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons, not named, whose offences are not particularly described, and supported by evidence—are dangerous to liberty, and ought not to be granted.

XII. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land.

XIII. That every freeman, restrained of his liberty, is entitled to a remedy, to inquire into the lawfulness thereof, and to remove the same, if unlawful; and that such remedy ought not to be denied or delayed.

XIV. That in all controversies at law, respecting property, the ancient mode of trial, by jury, is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

XV. That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.

XVI. That the people of this State ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their Representatives in General Assembly, freely given.

XVII. That the people have a right to bear arms, for the defence of the State; and, as standing armies, in time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

XVIII. That the people have a right to assemble together, to consult for their common good, to instruct their Representatives, and to apply to the Legislature, for redress of grievances.

XIX. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences.

XX. That, for redress of grievances, and for amending and strengthening the laws, elections ought to be often held.

XXI. That a frequent recurrence to fundamental principles is absolutely necessary, to preserve the blessings of liberty.

XXII. That no hereditary emoluments, privileges or honors ought to be granted or conferred in this State.

XXIII. That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

XXIV. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law ought to be made.

XXV. The property of the soil, in a free government, being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of the State should be ascertained with precision; and as the former temporary line between North and South Carolina, was confirmed, and extended by Commissioners, appointed by the Legislatures of the two States, agreeable to the order of the late King George the Second, in Council, that line, and that only, should be esteemed the southern boundary

of this State as follows: that is to say, beginning on the sea side, at a cedar stake, at or near the mouth of Little River (being the southern extremity of Brunswick county,) and running from thence a northwest course, through the boundary house, which stands in thirty-three degrees fifty-six minutes, to thirty-five degrees north latitude; and from thence a west course so far as is mentioned in the Charter of King Charles the Second, to the late Proprietors of Carolina. Therefore all the territories, seas, waters, and harbours, with their appurtenances, lying between the line above described, and the southern line of the State of Virginia, which begins on the sea shore, in thirty-six degrees thirty minutes, north latitude, and from thence runs west, agreeable to the said Charter of King Charles, are the right and property of the people of this State, to be held by them in sovereignty; any partial line, without the consent of the Legislature of this State, at any time thereafter directed, or laid out, in anywise notwithstanding:—*Provided always*, That this Declaration of Rights shall not prejudice any nation or nations of Indians, from enjoying such hunting-grounds as may have been, or hereafter shall be, secured to them by any former or future Legislature of this State:—*And provided also*, That it shall not be construed so as to prevent the establishment of one or more governments westward of this State, by consent of the Legislature:—*And provided further*, That nothing herein contained shall affect the titles or possessions of individuals holding or claiming under the laws heretofore in force, or grants heretofore made by the late King George the Second, or his predecessors, or the late lords proprietors, or any of them.

THE CONSTITUTION, OR FORM OF GOVERNMENT, &C

WHEREAS allegiance and protection are, in their nature, reciprocal, and the one should of right be refused when the other is withdrawn:

And whereas George the Third, King of Great Britain, and late Sovereign of the British American Colonies, hath not only withdrawn from them his protection, but, by an act of the British Legislature, declared the inhabitants of these States out of the protection of the British crown, and all their property, found upon the high seas, liable to be seized and confiscated to the uses mentioned in the said act; and the said George the Third has also sent fleets and armies to prosecute a cruel war against them, for the purpose of reducing the inhabitants of the said Colonies to a state of abject slavery; in consequence whereof, all government under the said King, within the said Colonies, hath ceased, and a total dissolution of government in many of them hath taken place.

And whereas the Continental Congress, having considered the premises, and other previous violations of the rights of the good people of America, have therefore declared, that the Thirteen United Colonies are, of right, wholly absolved from all allegiance to the British crown, or any other foreign jurisdiction whatsoever: and that the said Colonies now are, and forever shall be, free and independent States.

Wherefore, in our present state, in order to prevent anarchy and confusion, it becomes necessary, that government should be established in this State; therefore we, the Representatives of the freemen

of North-Carolina, chosen and assembled in Congress, for the express purpose of framing a Constitution, under the authority of the people, most conducive to their happiness and prosperity, do declare, that a government for this State shall be established, in manner and form following, to wit:

I.[a] That the legislative authority shall be vested in two distinct branches, both dependent on the people, to wit, a *Senate* and *House of Commons.*

II.[a] That the Senate shall be composed of Representatives, annually chosen by ballot, one for each county in the State.

III.[a] That the House of Commons shall be composed of Representatives annually chosen by ballot, two for each county, and one for each of the towns of Edenton, Newbern, Wilmington, Salisbury, Hillsborough and Halifax.

IV. That the Senate and House of Commons, assembled for the purpose of legislation, shall be denominated, *The General Assembly.*

V.[a] That each member of the Senate shall have usually resided in the county in which he is chosen for one year immediately preceding his election, and for the same time shall have possessed, and continue to possess, in the county which he represents, not less than three hundred acres of land in fee.

VI. That each member of the House of Commons shall have usually resided in the county in which he is chosen for one year immediately preceding his election, and for six months shall have possessed, and continue to possess, in the county which he represents, not less than one hundred acres of land in fee, or for the term of his own life.

VII.[a] That all freemen, of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same county of fifty acres of land, for six months next before, and at the day of election, shall be entitled to vote for a member of the Senate.

VIII.[a] That all freemen of the age of twenty-one years, who have been inhabitants of any one county within this State twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Commons for the county in which he resides.

IX.[a] That all persons possessed of a freehold in any town in this State, having a right of representation, and also all freemen, who have been inhabitants of any such town twelve months next before, and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the House of Commons:—Provided always, That this section shall not entitle any inhabitant of such town to vote for members of the House of Commons, for the county in which he may reside, nor any freeholder in such county, who resides without or beyond the limits of such town, to vote for a member for said town.

X. That the Senate and House of Commons, when met, shall each have power to choose a speaker, and other their officers; be judges of the qualifications and elections of their members; sit upon their own adjournments from day to day; and prepare bills, to be passed into

[a] See amendments.

laws. The two Houses shall direct writs of election for supplying intermediate vacancies; and shall also jointly, by ballot, adjourn themselves to any future day and place.

XI. That all bills shall be read three times in each House, before they pass into laws, and be signed by the Speakers of both Houses.

XII. That every person, who shall be chosen a member of the Senate or House of Commons, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take an oath to the State; and all officers shall also take an oath of office.

XIII.[a] That the General Assembly shall, by joint ballot of both houses, appoint Judges of the Supreme Courts of Law and Equity, Judges of Admiralty, and Attorney-General, who shall be commissioned by the Governor, and hold their offices during good behaviour.

XIV.[a] That the Senate and House of Commons shall have power to appoint the generals and field-officers of the militia, and all officers of the regular army of this State.

XV.[a] That the Senate and House of Commons, jointly at their first meeting after each annual election, shall by ballot elect a Governor for one year, who shall not be eligible to that office longer than three years, in six successive years. That no person, under thirty years of age, and who has not been a resident in this State above five years, and having, in the State, a freehold in lands and tenements above the value of one thousand pounds, shall be eligible as a Governor.

XIV. That the Senate and House of Commons, jointly, at their first meeting after each annual election, shall by ballot elect seven persons to be a Council of State for one year, who shall advise the Governor in the execution of his office; and that four members shall be a quorum; their advice and proceedings shall be entered in a journal, to be kept for that purpose only, and signed by the members present; to any part of which, any member present may enter his dissent. And such journal shall be laid before the General Assembly when called for by them.

XVII. That there shall be a seal of this State, which shall be kept by the Governor, and used by him, as occasion may require; and shall be called, *The Great Seal of the State of North Carolina*, and be affixed to all grants and commissions.

XVIII. The Governor, for the time being, shall be captain-general and commander in chief of the militia; and, in the recess of the General Assembly, shall have power, by and with the advice of the Council of State, to embody the militia for the public safety.

XIX.[a] That the Governor, for the time being, shall have power to draw for and apply such sums of money as shall be voted by the general assembly, for the contingencies of government, and be accountable to them for the same. He also may, by and with the advice of the Council of State, lay embargoes, or prohibit the exportation of any commodity, for any term not exceeding thirty days, at any one time in the recess of the General Assembly; and shall have the power of granting pardons and reprieves, except where the prosecution shall be carried on by the General Assembly, or the law shall otherwise direct; in which case he may, in the recess, grant a reprieve until the next sitting of the General Assembly; and may exercise all

[a] See amendments.

the other executive powers of government, limited and restrained as by this Constitution is mentioned, and according to the laws of the State. And on his death, inability, or absence from the State, the Speaker of the Senate for the time being—(and in case of his death, inability, or absence from the State, the Speaker of the House of Commons) shall exercise the powers of government after such death, or during such absence or inability of the Governor (or Speaker of the Senate,) or until a new nomination is made by the General Assembly.

XX. That in every case where any officer, the right of whose appointment is by this Constitution vested in the General Assembly, shall, during their recess, die, or his office by other means become vacant, the Governor shall have power, with the advice of the Council of State, to fill up such vacancy, by granting a temporary commission, which shall expire at the end of the next session of the General Assembly.

XXI. That the Governor, Judges of the Supreme Court of Law and Equity, Judges of Admiralty, and Attorney-General, shall have adequate salaries during their continuance in office.

XXII. That the General Assembly shall, by joint ballot of both Houses, annually appoint a Treasurer or Treasurers for this State.

XXIII. That the Governor, and other officers, offending against the State, by violating any part of this Constitution, mal-administration, or corruption, may be prosecuted, on the impeachment of the General Assembly, or presentment of the Grand Jury of any court of supreme jurisdiction in this State.

XXIV. That the General Assembly shall, by joint ballot of both Houses, triennially appoint a Secretary for this State.

XXV. That no persons, who heretofore have been, or hereafter may be, receivers of public the monies, shall have a seat in either House of General Assembly, or be eligible to any office in this State, until such person shall have fully accounted for and paid into the treasury all sums for which they may be accountable and liable.

XXVI. That no Treasurer shall have a seat, either in the Senate, House of Commons, or Council of State, during his continuance in that office, or before he shall have finally settled his accounts with the public, for all the monies which may be in his hands at the expiration of his office belonging to the State, and hath paid the same into the hands of the succeeding Treasurer.

XXVII. That no officer in the regular army or navy, in the service and pay of the United States, of this or any other State, nor any contractor or agent for supplying such army or navy with clothing or provisions, shall have a seat either in the Senate, House of Commons, or Council of State, or be eligible thereto: and any member of the Senate, House of Commons, or Council of State, being appointed to and accepting of such office, shall thereby vacate his seat.

XXVIII. That no member of the Council of State shall have a seat, either in the Senate, or House of Commons.

XXIX. That no Judge of the Supreme Court of Law or Equity, or Judge of Admiralty, shall have a seat in the Senate, House of Commons, or Council of State.

XXX. That no Secretary of this State, Attorney-General, or Clerk of any Court of record, shall have a seat in the Senate, House of Commons, or Council of State.

XXXI. That no clergyman, or preacher of the gospel, of any denomination, shall be capable of being a member of either the Senate, House of Commons, or Council of State, while he continues in the exercise of the pastoral function.

XXXII.[a] That no person, who shall deny the being of God or the truth of the Protestant religion, or the divine authority either of the Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State.

XXXIII. That the Justices of the Peace, within their respective counties in this State, shall in future be recommended to the Governor for the time being, by the Representatives in General Assembly; and the Governor shall commission them accordingly: and the Justices, when so commissioned, shall hold their offices during good behaviour, and shall not be removed from office by the General Assembly, unless for misbehaviour, absence, or inability.

XXXIV. That there shall be no establishment of any one religious church or denomination in this State, in preference to any other; neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship contrary to his own faith or judgment, nor be obliged to pay, for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform; but all persons shall be at liberty to exercise their own mode of worship:—*Provided*, That nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses, from legal trial and punishment.

XXXV. That no person in the State shall hold more than one lucrative office, at any one time:—*Provided*, That no appointment in the militia, or the office of a Justice of the Peace, shall be considered as a lucrative office.

XXXVI. That all commissions and grants shall run in the name of the State of North Carolina, and bear test, and be signed by the Governor. All writs shall run in the same manner, and bear test, and be signed by the Clerks of the respective Courts. Indictments shall conclude, *Against the peace and dignity of the State.*

XXXVII.[a] That the Delegates for this State, to the Continental Congress while necessary, shall be chosen annually by the General Assembly, by ballot; but may be superseded, in the mean time, in the same manner; and no person shall be elected, to serve in that capacity, for more than three years successively.

XXXVIII. That there shall be a Sheriff, Coroner or Coroners, and Constables, in each county within this State.

XXXIX. That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or the presumption great.

XL. That every foreigner, who comes to settle in this State, having first taken an oath of allegiance to the same, may purchase, or, by

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[a] See amendment.

other means, acquire, hold, and transfer land, or other real estate; and after one year's residence, shall be deemed a free citizen.

XLI. That a school or schools shall be established by the Legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and all useful learning shall be duly encouraged, and promoted, in one or more universities.

XLII. That no purchase of lands shall be made of the Indian natives, but on behalf of the public, by authority of the General Assembly.

XLIII. That the future Legislature of this State shall regulate entails, in such a manner as to prevent perpetuities.

XLIV. That the Declaration of Rights is hereby declared to be part of the Constitution of this State, and ought never to be violated, on any pretence whatsoever.

XLV. That any member of either House of General Assembly shall have liberty to dissent from, and protest against any act or resolve, which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journals.

XLVI. That neither House of the General Assembly shall proceed upon public business, unless a majority of all the members of such House are actually present: and that, upon a motion made and seconded, the yeas and nays, upon any question, shall be taken and entered on the journals; and that the journals of the proceedings of both Houses of the General Assembly shall be printed, and made public, immediately after their adjournment.

This Constitution is not intended to preclude the present Congress from making a temporary provision, for the well ordering of this State, until the General Assembly shall establish government, agreeable to the mode herein before described.

RICHARD CASWELL, *President.*

December the eighteenth, one thousand seven hundred and seventy-six, read the third time, and ratified in open Congress.

By order,

JAMES GREEN, jun. *secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1776[a]

(Ratified 1835)

ARTICLE 1. SECTION 1. One. The senate of this State shall consist of fifty representatives, biennially chosen by ballot, and to be elected by districts; which districts shall be laid off by the general assembly, at its first session after the year one thousand eight hundred and forty-one; and afterwards, at its first session after the year one thousand eight hundred and fifty-one; and then every twenty years thereafter, in proportion to the public taxes paid into the treasury of the State, by the citizens thereof; and the average of the public taxes paid by

[a] These amendments were framed by a convention which met at Raleigh June 4, 1835, and completed its labors July 11, 1835. They were submitted to the people and ratified by 26,771 votes against 21,606 votes.

each county into the treasury of the State, for the five years preceding the laying off of the districts, shall be considered as its proportion of the public taxes, and constitute the basis of apportionment: *Provided*, That no county shall be divided in the formation of a senatorial district. And when there are one or more counties having an excess of taxation above the ratio to form a senatorial district, adjoining a county or counties deficient in such ratio, the excess or excesses aforesaid shall be added to the taxation of the county or counties deficient; and if, with such addition, the county or counties receiving it shall have the requisite ratio, such county and counties each shall constitute a senatorial district.

Two. The house of commons shall be composed of one hundred and twenty representatives, biennially chosen by ballot, to be elected by counties according to their Federal population, that is, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons; and each county shall have at least one member in the house of commons, although it may not contain the requisite ratio of population.

Three. This apportionment shall be made by the general assembly, at the respective times and periods when the districts for the senate are hereinbefore directed to be laid off; and the said apportionment shall be made according to an enumeration to be ordered by the general assembly, or according to the census which may be taken by order of Congress, next preceding the making such apportionment.

Four. In making the apportionment in the house of commons, the ratio of representation shall be ascertained by dividing the amount of Federal population in the State, after deducting that comprehended within those counties which do not severally contain the one hundred and twentieth part of the entire Federal population aforesaid, by the number of representatives less than the number assigned to the said counties. To each county containing the said ratio, and not twice the said ratio, there shall be assigned one representative; to each county containing twice, but not three times the said ratio, there shall be assigned two representatives, and so on progressively; and then the remaining representatives shall be assigned severally to the counties having the largest fractions.

SEC. 2. One. Until the first session of the general assembly which shall be had after the year eighteen hundred and forty-one, the senate shall be composed of members to be elected from the several districts hereinafter named, that is to say, the first district shall consist of the counties of Perquimons and Pasquotank; the second district of Camden and Currituck; the third district, Gates and Chowan; the fourth district, Washington and Tyrrell; the fifth district, Northampton; the sixth district, Hertford; the seventh district, Bertie; the eighth district, Martin; the ninth district, Halifax; the tenth district, Nash; the eleventh district, Wake; the twelfth district, Franklin; the thirteenth district, Johnston; the fourteenth district, Warren; the fifteenth district, Edgecomb; the sixteenth district, Wayne; the seventeenth district, Green and Lenoir; the eighteenth district, Pitt; the nineteenth district, Beaufort and Hyde; the twentieth district, Carteret and Jones; the twenty-first district,

Craven; the twenty-second district, Chatham; the twenty-third district, Granville; the twenty-fourth district, Person; the twenty-fifth district, Cumberland; the twenty-sixth district, Sampson; the twenty-seventh district, New Hanover; the twenty-eighth district, Duplin; the twenty-ninth district, Onslow; the thirtieth district, Brunswick, Bladen, and Columbus; the thirty-first district, Robeson and Richmond; the thirty-second district, Anson; the thirty-third district, Cabarrus; the thirty-fourth district, Moore and Montgomery; the thirty-fifth district, Caswell; the thirty-sixth district, Rockingham; the thirty-seventh district, Orange; the thirty-eighth district, Randolph; the thirty-ninth district, Guilford; the fortieth district, Stokes; the forty-first district, Rowan; the forty-second district, Davidson; the forty-third district, Surry; the forty-fourth district, Wilkes and Ashe; the forty-fifth district, Burke and Yancy; the forty-sixth district, Lincoln; the forty-seventh district, Iredell; the forty-eighth district, Rutherford; the forty-ninth district, Buncombe, Haywood, and Macon; the fiftieth district, Mecklenburg; each district to be entitled to one senator.

Two. Until the first session of the general assembly after the year eighteen hundred and forty-one, the house of commons shall be composed of members elected from the counties in the following manner, viz:

The counties of Lincoln and Orange shall elect four members each.

The counties of Burke, Chatham, Granville, Guilford, Halifax, Iredell, Mecklenburg, Rowan, Rutherford, Surry, Stokes, and Wake, shall elect three members each.

The counties of Anson, Beaufort, Bertie, Buncombe, Cumberland, Craven, Caswell, Davidson, Duplin, Edgecomb, Franklin, Johnston, Montgomery, New Hanover, Northampton, Person, Pitt, Randolph, Robeson, Richmond, Rockingham, Sampson, Warren, Wayne, and Wilkes shall elect two members each.

The counties of Ashe, Bladen, Brunswick, Camden, Columbus, Chowan, Currituck, Carteret, Cabarrus, Gates, Greene, Haywood, Hertford, Hyde, Jones, Lenoir, Macon, Moore, Martin, Nash, Onslow, Pasquotank, Perquimons, Tyrrell, Washington, and Yancy shall elect one member each.

Sec. 3. One. Each member of the senate shall have usually resided in the district for which he is chosen for one year immediately preceding his election, and for the same time shall have possessed and continue to possess in the district which he represents, not less than three hundred acres of land in fee.

Two. All free men of the age of twenty-one years, (except as is hereinafter declared,) who have been inhabitants of any one district within the State, twelve months immediately preceding the day of any election, and possessed of a freehold within the same district of fifty acres of land, for six months next before and at the day of election, shall be entitled to vote for a member of the senate.[a]

Three. No free negro, free mulatto, or free person of mixed blood, descended from negro ancestors, to the fourth generation inclusive, (though one ancestor of each generation may have been a white person,) shall vote for members of the senate or house of commons.

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[a] Amended, Dec. 11, 1856.

Sec. 4. One. In the election of all officers, whose appointment is conferred on the general assembly by the constitution, the vote shall be *viva voce.*

Two. The general assembly shall have power to pass laws regulating the mode of appointing and removing militia officers.

Three. The general assembly shall have power to pass general laws, regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

Four. The general assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any persons not born in lawful wedlock, or to restore to the rights of citizenship, any person convicted of an infamous crime; but shall have power to pass general laws regulating the same.

Five. The general assembly shall not pass any private law, unless it shall be made to appear, that thirty days' notice of application to pass such law shall have been given, under such directions and in such manner as shall be provided by law.

Six. If vacancies shall occur by death, resignation, or otherwise, before the meeting of the general assembly, writs may be issued by the governor, under such regulations as may be prescribed by law.

Seven. The general assembly shall meet biennially, and at each biennial session shall elect by joint vote of the two houses a secretary of state, treasurer, and council of state, who shall continue in office for the term of two years.

Art. II. One. The governor shall be chosen by the qualified voters for the members of the house of commons, at such time and places as members of the general assembly are elected.

Two. He shall hold his office for the term of two years from the time of his installation, and until another shall be elected and qualified; but he shall not be eligible more than four years in any term of six years.

Three. The returns of every election for governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of both houses of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint vote of both houses of the general assembly.

Four. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Five. The governor-elect shall enter on the duties of the office on the first day of January next after his election, having previously taken the oaths of office in the presence of the members of both branches of the general assembly, or before the chief justice of the supreme court, who, in case the governor-elect should be prevented from attendance before the general assembly, by sickness or other unavoidable cause, is authorized to administer the same.

Art. III. Section 1. One. The governor, judges of the supreme court, and judges of the superior courts, and all other officers of this State, (except justices of the peace and militia officers,) may be impeached for wilfully violating any article of the constitution, maladministration, or corruption.

Two. Judgment, in cases of impeachment, shall not extend further than to remove from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State; but the party convicted may nevertheless be liable to indictment, trial, judgment, and punishment according to law.

Three. The house of commons shall have the sole power of impeachment. The senate shall have the sole power to try all impeachments. No person shall be convicted upon any impeachment unless two-thirds of the senators present shall concur in such conviction; and before the trial of any impeachment, the members of the senate shall take an oath or affirmation truly and impartially to try and determine the charge in question according to evidence.

Sec. 2. Any judge of the supreme court or of the superior courts may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both branches of the general assembly. The judge against whom the legislature may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either branch of the general assembly shall act thereon.

The salaries of the judges of the supreme court, or of the superior courts, shall not be diminished during their continuance in office.

Sec. 3. Upon the conviction of any justice of the peace of any infamous crime, or of corruption or malpractice in office, the commission of such justice shall be thereby vacated, and he shall be forever disqualified from holding such appointment.

Sec. 4. The general assembly, at its first session after the year one thousand eight hundred and thirty-nine, and from time to time thereafter, shall appoint an attorney-general, who shall be commissioned by the governor, and shall hold his office for the term of four years; but if the general assembly should hereafter extend the term during which solicitors of the State shall hold their offices, then they shall have power to extend the term of office of the attorney-general to the same period.

Art. IV. Section 1. One. No convention of the people shall be called by the general assembly, unless by the concurrence of two-thirds of all the members of each house of the general assembly.

Two. No part of the constitution of this State shall be altered, unless a bill to alter the same shall have been read three times in each house of the general assembly, and agreed to by three-fifths of the whole number of members of each house respectively; nor shall any alteration take place until the bill so agreed to shall have been published six months previous to a new election of members to the general assembly. If, after such publication, the alteration proposed by the preceding general assembly shall be agreed to in the first session thereafter, by two-thirds of the whole representation in each house of the general assembly, after the same shall have been read three times on three several days in each house, then the said general assembly shall prescribe a mode by which the amendment or amendments may be submitted to the qualified voters of the house of commons throughout the State; and if, upon comparing the votes given in the whole State, it shall appear that a majority of the voters have approved thereof, then, and not otherwise, the same shall become a part of the constitution.

Sec. 2. The thirty-second section of the constitution shall be

amended to read as follows: No person who shall deny the being of God, or the truth of the Christian religion, or the divine authority of the Old or New Testament, or who shall hold religious principles incompatible with the freedom or safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State.

SEC. 3. One. Capitation-tax shall be equal throughout the State, upon all individuals subject to the same.

Two. All free males over the age of twenty-one years and under the age of forty-five years, and all slaves over the age of twelve years and under the age of fifty years, shall be subject to capitation-tax, and no other person shall be subject to such tax: *Provided*, That nothing herein contained shall prevent exemptions of taxable polls, as heretofore prescribed by law in cases of bodily infirmity.

SEC. 4. No person who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this State, or any other State or government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either house of the general assembly: *Provided*, That nothing herein contained shall extend to officers in the militia or justices of the peace.

NATHANIEL MACON, *President.*

EDWARD B. KNEEMAN, *Secretary.*
JOSEPH D. WARD, *Assistant Secretary.*

(Ratified Dec. 11, 1856.)

ARTICLE I. SEC. 3. Clause two: Every free white man at the age of twenty-one years, being a native or naturalized citizen of the United States, and who has been an inhabitant of the State for twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to a vote for a member of the senate for the district in which he resides.

CONSTITUTION OF NORTH CAROLINA—1861

[A State convention, called by an act of the legislature, passed an ordinance of secession May 20, 1861, and revised the State constitution, which was not submitted to the people for ratification.]

ORDINANCE PROHIBITING SLAVERY IN NORTH CAROLINA—1865 *[a]

Be it declared and ordained by the delegates of the people of the State of North Carolina in convention assembled, and it is hereby declared and ordained, That slavery and involuntary servitude, other-

* Journal of the Convention of the State of North Carolina, at its Session of 1865. Raleigh: Cannon & Holden, Printers to the Convention, 1865. pp. 192.

Executive Documents. Convention, Session 1865. Constitution of North-Carolina, with Amendments, and Ordinances and Resolutions passed by the Convention, Session, 1865. Raleigh: Cannon and Holden, Printers to the State. 1865. pp. 78.

Constitution of the State of North Carolina, together with the Ordinances and Resolutions of the Constitutional Convention, Assembled in the City of Raleigh,

wise than for crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited within the State.

Ratified in convention this ninth day of October, in the year of our Lord one thousand eight hundred and sixty-five.

EDWIN G. READE, *President.*

JAS. H. MOORE, *Secretary.*
R. C. BADGER, *Assistant Secretary.*

CONSTITUTION OF NORTH CAROLINA—1868 [b]

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the sovereign ruler of nations, for the preservation of the American Union and the existence of our civil, political, and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government, may be recognized and established, and that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare:

SECTION 1. That we hold it to be self-evident that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. That all political power is vested in and derived from the people; all government of right originates from the people, is

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Jan. 14, 1868. Raleigh: Joseph W. Holden, Convention Printer. 1868. pp. 129. Index.

Constitution of the State of North Carolina together with the Ordinances and Resolutions of the Constitutional Convention, assembled in the City of Raleigh, January 14, 1868. Raleigh: Joseph W. Holden, Convention Printer, 1868. pp. 488. Index.

[a] A convention, called by Provisional Governor William W. Holden, met at Raleigh October 2, 1865, repealed the ordinance of secession, adopted this ordinance, prohibiting slavery October 9, 1865, and adjourned October 19, 1865. The people ratified their repeal of the ordinance of secession by 20,506 votes against 2,002 votes, and the ordinance prohibiting slavery by 19,039 votes against 3,970 votes. The convention reassembled in May, 1866, and reconstructed the constitution of 1776, but their work was rejected by the people, receiving 19,570 votes against 21,552 votes.

[b] This constitution was framed by a convention called, under the reconstruction acts of Congress, by Major-General Canby, which assembled at Raleigh January 14, 1868, and completed its labors March 16, 1868. It was accompanied by an ordinance submitting it to the people, and an ordinance to prevent the intimidation of voters, and it was ratified by 93,118 votes against 74,009 votes.

founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. That the people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof and of altering and abolishing their constitution and form of government whenever it may be necessary to their safety and happiness; but every such right should be exercised in pursuance of law and consistently with the Constitution of the United States.

SEC. 4. That this State shall ever remain a member of the American Union; that the people thereof are part of the American nation; that there is no right on the part of this State to secede, and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union or to sever said nation ought to be resisted with the whole power of the State.

SEC. 5. That every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. To maintain the honor and good faith of the State untarnished, the public debt, regularly contracted before and since the rebellion, shall be regarded as inviolable and never be questioned; but the State shall never assume or pay, or authorize the collection of, any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave.

SEC. 7. No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 8. The legislative, executive, and supreme judicial powers of the government ought to be forever separate and distinct from each other.

SEC. 9. All power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

SEC. 10. All elections ought to be free.

SEC. 11. In all criminal prosecutions every man has the right to be informed of the accusation against him and to confront the accusers and witnesses with other testimony, and to have counsel for his defence, and not be compelled to give evidence against himself, or to pay costs, jail-fees, or necessary witness-fees of the defence, unless found guilty.

SEC. 12. No person shall be put to answer any criminal charge, except as hereinafter allowed, but by indictment, presentment, or impeachment.

SEC. 13. No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The legislature may, however, provide other means of trial, for petty misdemeanors, with the right of appeal.

SEC. 14. Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 15. General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any persons not named, whose offence is not

particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

SEC. 16. There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 17. No person ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land.

SEC. 18. Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the same if unlawful; and such remedy ought not to be denied or delayed.

SEC. 19. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

SEC. 20. The freedom of the press is one of the great bulwarks of liberty, and, therefore, ought never to be restrained, but every individual shall be held responsible for the abuse of the same.

SEC. 21. The privilege of the writ of *habeas corpus* shall not be suspended.

SEC. 22. As political rights and privileges are not dependent upon or modified by property, therefore no property qualifications ought to affect the right to vote or hold office.

SEC. 23. The people of this State ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their representatives in general assembly, freely given.

SEC. 24. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to and governed by the civil power.

SEC. 25. The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

SEC. 26. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the right of conscience.

SEC. 27. The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 28. For redress of grievances, and for amending and strengthening the laws, elections should be often held.

SEC. 29. A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 30. No hereditary emoluments, privileges, or honors ought to be granted or conferred in this State.

SEC. 31. Perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

SEC. 32. Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law ought to be made. No law taxing retrospectively sales, purchases, or other acts previously done, ought to be passed.

SEC. 33. Slavery and involuntary servitude, otherwise than for crime whereof the parties shall have been duly convicted, shall be, and are hereby, forever prohibited within this State.

SEC. 34. The limits and boundaries of the State shall be and remain as they now are.

SEC. 35. All courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

SEC. 36. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 37. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

ARTICLE II

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative authority shall be vested in two distinct branches, both dependent on the people, to wit: A senate and house of representatives.

SEC. 2. The senate and house of representatives shall meet annually on the third Monday in November, and when assembled, shall be denominated the general assembly. Neither house shall proceed upon public business, unless a majority of all the members are actually present.

SEC. 3. The senate shall be composed of fifty senators biennially chosen by ballot.

SEC. 4. Until the first session of the general assembly, which shall be had after the year eighteen hundred and seventy-one, the senate shall be composed of members elected from districts constituted as follows:

First district, Perquimans, Chowan, Pasquotank, Currituck, Gates, and Camden, shall elect two senators.

Second district, Martin, Washington, and Tyrrell, shall elect one senator.

Third district, Beaufort and Hyde, shall elect one senator.

Fourth district, Northampton, shall elect one senator.

Fifth district, Bertie and Hertford, shall elect one senator.

Sixth district, Halifax, shall elect one senator.

Seventh district, Edgecomb, shall elect one senator.

Eighth district, Pitt, shall elect one senator.

Ninth district, Nash and Wilson, shall elect one senator.

Tenth district, Craven and Carteret, shall elect two senators.

Eleventh district, Jones and Lenoir, shall elect one senator.

Twelfth district, Duplin and Onslow, shall elect one senator.

Thirteenth district, Brunswick and New Hanover, shall elect two senators.

Fourteenth district, Bladen and Columbus, shall elect one senator.

Fifteenth district, Robeson, shall elect one senator.

Sixteenth district, Cumberland, Harnett, and Sampson, shall elect two senators.

Seventeenth district, Johnston, shall elect one senator.

Eighteenth district, Greene and Wayne, shall elect one senator.

Nineteenth district, Franklin and Wake, shall elect two senators.

Twentieth district, Warren, shall elect one senator.

Twenty-first district, Granville and Person, shall elect two senators.

Twenty-second district, Orange, shall elect one senator.

Twenty-third district, Chatham, shall elect one senator.

Twenty-fourth district, Caswell, shall elect one senator.

Twenty-fifth district, Rockingham, shall elect one senator.

Twenty-sixth district, Alamance and Guilford, shall elect two senators.

Twenty-seventh district, Randolph and Montgomery, shall elect one senator.

Twenty-eighth district, Moore and Richmond, shall elect one senator.

Twenty-ninth district, Anson and Union, shall elect one senator.

Thirtieth district, Mecklenburg, shall elect one senator.

Thirty-first district, Cabarrus and Stanly, shall elect one senator.

Thirty-second district, Davie and Rowan, shall elect one senator.

Thirty-third district, Davidson, shall elect one senator.

Thirty-fourth district, Forsyth and Stokes, shall elect one senator.

Thirty-fifth district, Surry and Yadkin, shall elect one senator.

Thirty-sixth district, Alexander and Iredell, shall elect one senator.

Thirty-seventh district, Catawba, Gaston, and Lincoln, shall elect one senator.

Thirty-eighth district, Cleveland, Polk, and Rutherford, shall elect one senator.

Thirty-ninth district, Alleghany, Ashe, and Wilkes, shall elect one senator.

Fortieth district, Buncombe, Henderson, and Transylvania, shall elect one senator.

Forty-first district, Burke, Caldwell, and Watauga, shall elect one senator.

Forty-second district, Madison, Mitchel, McDowel, and Yancy, shall elect one senator.

Forty-third district, Clay, Cherokee, Haywood, Jackson, and Macon, shall elect one senator.

SEC. 5. An enumeration of the inhabitants of the State shall be taken under the direction of the general assembly in the year one thousand eight hundred and fifty-seven, and at the end of every ten years thereafter; and the said senate districts shall be so altered by the general assembly, at the first session after the return of every enumeration taken as aforesaid, or by order of Congress, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens and Indians not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district, unless such county shall be equitably entitled to two or more senators.

SEC. 6. The house of representatives shall be composed of one hundred and twenty representatives, biennially chosen by ballot, to be elected by the counties respectively, according to their population,

and each county shall have at least one representative in the house of representatives, although it may not contain the requisite ratio of representation; this apportionment shall be made by the general assembly at the respective times and periods when the districts for the senate are hereinbefore directed to be laid off.

SEC. 7. In making the apportionment in the house of representatives, the ratio of representation shall be ascertained by dividing the amount of the population of the State, exclusive of that comprehended within those counties which do not severally contain the one hundred and twentieth part of the population of the State, by the number of representatives, less the number assigned to such counties; and in ascertaining the number of the population of the State, aliens and Indians not taxed shall not be included. To each county containing the said ratio and not twice the said ratio, there shall be assigned one representative; to each county containing twice, but not three times the said ratio, there shall be assigned two representatives, and so on progressively, and then the remaining representatives shall be assigned severally to the counties having the largest fractions.

SEC. 8. Until the general assembly shall have made the apportionment as hereinbefore provided, the house of representatives shall be composed of members elected from the counties in the following manner, to wit:

The county of Wake shall elect four members; the counties of Craven, Granville, Halifax, and New Hanover shall elect three members each; the counties of Caswell, Chatham, Cumberland, Davidson, Duplin, Edgecombe, Franklin, Guilford, Iredell, Johnston, Mecklenburg, Northampton, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Warren, and Wayne shall elect elect two members each: the counties of Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Clay, Cleveland, Columbus, Currituck, Davie, Forsythe, Gaston, Gates, Greene, Harnett, Henderson, Haywood, Hertford, Hyde, Jackson, Jones, Lenoir, Lincoln, Macon, Madison, Martin, McDowel, Mitchel, Montgomery, Moore, Nash, Onslow, Pasquotank, Perquimans, Person, Polk, Richmond, Rutherford, Sampson, Stanly, Stokes, Surry, Transylvania, Tyrrell, Union, Washington, Watauga, Wilkes, Wilson, Yadkin, and Yancy, shall elect one member each.

SEC. 9. Each member of the senate shall not be less than twenty-five years of age, shall have resided in the State as a citizen two years, and shall have usually resided in the district for which he is chosen one year immediately preceding his election.

SEC. 10. Each member of the house of representatives shall be a qualified elector of the State, and shall have resided in the county for which he is chosen for one year immediately preceding his election.

SEC. 11. In the election of all officers whose appointment shall be conferred upon the general assembly by the constitution, the vote shall be *viva voce*.

SEC. 12. The general assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

SEC. 13. The general assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any person not born in lawful wedlock, or to restore to the rights of citizen-

ship any person convicted of an infamous crime, but shall have power to pass general laws regulating the same.

SEC. 14. The general assembly shall not pass any private law, unless it shall be made to appear that thirty days' notice of application to pass such law shall have been given, under such direction and in such manner as shall be provided by law.

SEC. 15. If vacancies shall occur in the general assembly by death, resignation, or otherwise, writs of election shall be issued by the governor under such regulations as may be prescribed by law.

SEC. 16. No law shall be passed to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the general assembly, and passed three several readings, which readings shall have been on three different days, and agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

SEC. 17. The general assembly shall regulate entails in such manner as to prevent perpetuities.

SEC. 18. Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the general assembly.

SEC. 19. Any member of either house may dissent from, and protest against, any act or resolve which he may think injurious to the public or any individual, and have the reasons of his dissent entered on the journal.

SEC. 20. The house of representatives shall choose their own speaker and other officers.

SEC. 21. The lieutenant-governor shall preside in the senate, but shall have no vote, unless it may be equally divided.

SEC. 22. The senate shall choose its own officers and also a speaker *pro tempore* in the absence of the lieutenant-governor, or when he shall exercise the office of governor.

SEC. 23. The style of the acts shall be, "*The general assembly of North Carolina do enact.*"

SEC. 24. Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws, and the two houses may also jointly adjourn to any future day, or other place.

SEC. 25. All bills and resolutions of a legislative nature shall be read three times in each house, before they pass into laws; and shall be signed by the presiding officers of both houses.

SEC. 26. Each member of the general assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States, and the constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the senate or house of representatives.

SEC. 27. The terms of office for senators and members of the house of representatives shall commence at the time of their election; and the term of office of those elected at the first election held under this constitution shall terminate at the same time as if they had been elected, at the first ensuing regular election.

Sec. 28. Upon motion made and seconded in either house, by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.

Sec. 29. The election for members of the general assembly shall be held for the respective districts, and counties, at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year one thousand eight hundred and seventy, and every two years thereafter. But the general assembly may change the time of holding the elections. The first election shall be held when the vote shall be taken on the ratification of this constitution by the voters of the State, and the general assembly then elected shall meet on the 15th day after the approval thereof by the Congress of the United States, if it fall not on Sunday, but if it shall so fall, then on the next day thereafter: and the members then elected shall hold their seats until their successors are elected at a regular election.

Article III

executive department

Section 1. The executive department shall consist of a governor, (in whom shall be vested the supreme executive power of the State,) a lieutenant-governor, a secretary of state, an auditor, a treasurer, a superintendent of public works, a superintendent of public instruction, and an attorney-general, who shall be elected for a term of four years, by the qualified electors of the State, at the same time and places, and in the same manner as members of the general assembly are elected. Their term of office shall commence on the first day of January next, after their election, and continue until their successors are elected and qualified: *Provided*, That the officers first elected shall assume the duties of their office ten days after the approval of the constitution by the Congress of the United States, and shall hold their offices four years from and after the first day of January, 1869.

Sec. 2. No person shall be eligible as governor or lieutenant-governor, unless he shall have attained the age of thirty years, shall have been a citizen of the United States five years, and shall have been a resident of this State for two years next before the election; nor shall the person elected to either of these two offices be eligible to the same office more than four years in any term of eight years, unless the office shall have been cast upon him as lieutenant-governor or president of the senate.

Sec. 3. The return of every election for officers of the executive department shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the house of representatives, who shall open and publish the same in the presence of a majority of the members of both houses of the general assembly. The persons having the highest number of votes respectively shall be declared duly elected; but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the general assembly. Contested elections shall be determined by a joint vote of both houses of the general assembly, in such manner as shall be prescribed by law.

Sec. 4. The governor, before entering upon the duties of his office, shall, in the presence of the members of both branches of the general assembly, or before any justice of the supreme court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties appertaining to the office of governor for which he has been elected.

Sec. 5. The governor shall reside at the seat of government of this State, and he shall, from time to time, give the general assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

Sec. 6. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, (except in cases of impeachment,) upon such conditions as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall annually communicate to the general assembly each case of reprieve, commutation, or pardon granted, stating the name of each convict, the crime for which he was convicted, the sentence and its date, the date of commutation, pardon, or reprieve, and the reasons therefor.

Sec. 7. The officers of the executive department and of the public institutions of the State shall, at least five days previous to each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly; and the governor may at any time require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

Sec. 8. The governor shall be commander-in-chief of the militia of the State, except when they shall be called into the service of the United States.

Sec. 9. The governor shall have power on extraordinary occasions, by and with the advice of the council of state, to convene the general assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

Sec. 10. The governor shall nominate and, by and with the advice and consent of a majority of the senators-elect, appoint all officers whose offices are established by this constitution, or which shall be created by law, and whose appointments are not otherwise provided for, and no such officer shall be appointed or elected by the general assembly.

Sec. 11. The lieutenant-governor shall be president of the senate, but shall have no vote unless the senate be equally divided. He shall, whilst acting as president of the senate, receive for his services the same pay which shall for the same period be allowed to the speaker of the house of representatives, and he shall receive no other compensation except when he is acting as governor.

Sec. 12. In case of the impeachment of the governor, his failure to qualify, his absence from the State, his inability to discharge the duties of his office, or in case the office of governor shall in anywise become vacant, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor until the disabilities shall cease, or a new governor shall be elected and qualified. In every case in which the lieutenant-governor shall be unable to preside over the

senate, the senators shall elect one of their own number president of their body; and the powers, duties, and emoluments of the office of governor shall devolve upon him whenever the lieutenant-governor shall, for any reason, be prevented from discharging the duties of such office as above provided, and he shall continue as acting governor until the disabilities be removed or a new governor or lieutenant-governor shall be elected and qualified. Whenever, during the recess of the general assembly, it shall become necessary for a president of the senate to administer the government, the secretary of state shall convene the senate, that they may elect such president.

SEC. 13. The respective duties of the secretary of state, auditor, treasurer, superintendent of public works, superintendent of public instruction, and attorney-general shall be prescribed by law. If the office of any of said officers shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to appoint another until the disability be removed or his successor be elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in the first section of this article.

SEC. 14. The secretary of state, auditor, treasurer, superintendent of public works, and superintendent of public instruction shall constitute, *ex officio*, the council of the State, who shall advise the governor in the execution of his office, and three of whom shall constitute a quorum; their advice and proceedings in this capacity shall be entered in a journal, to be kept for this purpose exclusively, and signed by the members present, from any part of which any member may enter his dissent; and such journal shall be placed before the general assembly when called for by either house. The attorney-general shall be, *ex officio*, the legal advisor of the executive department.

SEC. 15. The officers mentioned in this article shall, at stated periods, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the time for which they shall have been elected, and the said officers shall receive no other emolument or allowance whatever.

SEC. 16. There shall be a seal of the State, which shall be kept by the governor, and used by him, as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 17. There shall be established in the office of secretary of state a bureau of statistics, agriculture, and immigration, under such regulations as the general assembly may provide.

ARTICLE IV

JUDICIAL DEPARTMENT

SECTION 1. The distinction between actions at law and suits in equity, and the forms of all such actions and suits, shall be abolished, and there shall be in this State but one form of action for the enforcement or protection of private rights, or the redress of private wrongs,

which shall be denominated a civil action; and every action prosecuted by the people of the State as a party, against a person charged with a public offence, for the punishment of the same, shall be termed a criminal action. Feigned issues shall also be abolished, and the fact at issue tried by order of court before a jury.

Sec. 2. Three commissioners shall be appointed by this convention to report to the general assembly, at its first session after this constitution shall be adopted by the people, rules of practice and procedure in accordance with the provisions of the foregoing section, and the convention shall provide for the commissioners a reasonable compensation.

Sec. 3. The same commissioners shall also report to the general assembly, as soon as practicable, a code of the law of North Carolina. The governor shall have power to fill all vacancies occurring in this commission.

Sec. 4. The judicial power of the State shall be vested in a court for the trial of impeachments, a supreme court, superior courts, courts of justices of the peace, and special courts.

Sec. 5. The court for the trial of impeachments shall be the senate. A majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal from, and disqualification to hold, office in this State; but the party shall be liable to indictment and punishment according to law.

Sec. 6. The house of representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the senators present. When the governor is impeached, the chief justice shall preside.

Sec. 7. Treason against the State shall consist only in levying war against it or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Sec. 8. The supreme court shall consist of a chief justice and four associate justices.

Sec. 9. There shall be two terms of the supreme court held at the seat of government of the State in each year, commencing on the first Monday in January and the first Monday in June, and continuing as long as the public interests may require.

Sec. 10. The supreme court shall have jurisdiction to review, upon appeal, and decision of the courts below upon any matter of law or legal inference; but no issue of fact shall be tried before this court; and the court shall have power to issue any remedial writs necessary to give it a general supervision and control of the inferior courts.

Sec. 11. The supreme court shall have original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the general assembly for its action.

Sec. 12. The State shall be divided into twelve judicial districts, for each of which a judge shall be chosen, who shall hold a superior court in each county in said district, at least twice in each year, to continue for two weeks, unless the business shall sooner be disposed of.

SEC. 13. Until altered by law, the following shall be the judicial districts:

First district.—Currituck, Camden, Pasquotank, Perquimans, Chowan, Gates, Hertford, and Bertie.

Second district.—Tyrrell, Hyde, Washington, Beaufort, Martin, Pitt, and Edgecombe.

Third district.—Craven, Carteret, Jones, Greene, Onslow, Lenoir, Wayne, and Wilson.

Fourth district.—Brunswick, New Hanover, Duplin, Columbus, Bladen, Sampson, and Robeson.

Fifth district.—Cumberland, Harnett, Moore, Richmond, Anson, Montgomery, Stanly, and Union.

Sixth district.—Northampton, Warren, Halifax, Wake, Nash, Franklin, Johnston, and Granville.

Seventh district.—Person, Orange, Chatham, Randolph, Guilford, Alamance, Caswell, and Rockingham.

Eighth district.—Stokes, Forsyth, Davidson, Rowan, Davie, Yadkin, and Surry.

Ninth district.—Catawba, Cabarrus, Mecklenburg, Lincoln, Gaston, Cleveland, Rutherford, and Polk.

Tenth district.—Iredell, Burke, Caldwell, Wilkes, Alexander, and McDowel.

Eleventh district.—Alleghany, Ashe, Watauga, Mitchell, Yancy, Madison, and Buncombe.

Twelfth district.—Henderson, Transylvania, Haywood, Macon, Jackson, Clay, and Cherokee.

SEC. 14. Every judge of a superior court shall reside in his district while holding his office. The judges may exchange districts with each other with the consent of the governor, and the governor, for good reasons, which he shall report to the legislature at its current or next session, may require any judge to hold one or more specified terms of said courts in lieu of the judge in whose district they are.

SEC. 15. The superior courts shall have exclusive original jurisdiction of all civil actions, whereof exclusive original jurisdiction is not given to some other courts; and of all criminal actions, in which the punishment may exceed a fine of fifty dollars or imprisonment for one month.

SEC. 16. The superior courts shall have appellate jurisdiction of all issues of law or fact, determined by a probate judge or a justice of the peace, where the matter in controversy exceeds twenty-five dollars, and of matters of law in all cases.

SEC. 17. The clerks of the superior courts shall have jurisdiction of the probate of deeds, the granting of letters testamentary and of administration, the appointment of guardians, the apprenticing of orphans, to audit the accounts of executors, administrators, and guardians, and of such other matters as shall be prescribed by law. All issues of fact joined before them shall be transferred to the superior courts for trial, and appeals shall lie to the superior courts from their judgments in all matters of law.

SEC. 18. In all issues of fact, joined in any court, the parties may waive the right to have the same determined by jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict of a jury.

SEC. 19. The general assembly shall provide for the establishment of special courts, for the trial of misdemeanors, in cities and towns, where the same may be necessary.

SEC. 20. The clerk of the supreme court shall be appointed by the court, and shall hold his office for eight years.

SEC. 21. A clerk of the superior court for each county shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law for the election of members of the general assembly.

SEC. 22. Clerks of the superior courts shall hold their offices for four years.

SEC. 23. The general assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this article; but the salaries of the judges shall not be diminished during their continuance in office.

SEC. 24. The laws of North Carolina, not repugnant to this constitution or to the Constitution and laws of the United States, shall be in force until lawfully altered.

SEC. 25. Actions at law, and suits in equity, pending when this constitution shall go into effect, shall be transferred to the courts having jurisdiction thereof, without prejudice by reason of the change, and all such actions and suits, commenced before, and pending at, the adoption by the general assembly of the rules of practice and procedure herein provided for, shall be heard and determined according to the practice now in use, unless otherwise provided for by said rules.

SEC. 26. The justices of the supreme court shall be elected by the qualified voters of the State, as is provided for the election of members of the general assembly. They shall hold their offices for eight years. The judges of the superior courts shall be elected in like manner, and shall hold their offices for eight years; but the judges of the superior courts elected at the first election under this constitution shall, after their election, under the superintendence of the justices of the supreme court, be divided by lot into two equal classes, one of which shall hold office for four years, the other for eight years.

SEC. 27. The general assembly may provide by law that the judges of the superior courts, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

SEC. 28. The superior courts shall be, at all times, open for the transaction of all business within their jurisdiction, except the trial of issues of fact requiring a jury.

SEC. 29. A solicitor shall be elected for each judicial district by the qualified voters thereof, as is prescribed for members of the general assembly, who shall hold office for the term of four years, and prosecute on behalf of the State, in all criminal actions in the superior courts, and advise the officers of justice in his district.

SEC. 30. In each county a sheriff and coroner shall be elected by the qualified voters thereof, as is prescribed for members of the general assembly, and shall hold their offices for two years. In each township there shall be a constable, elected in like manner by the voters thereof, who shall hold his office for two years. When there is no coroner in the county, the clerk of the superior court for the county may appoint one for special cases. In case of a vacancy existing for

any cause, in any of the offices created by this section, the commissioners for the county may appoint to such office for the unexpired term.

SEC. 31. All vacancies occurring in the offices provided for by this article of this constitution shall be filled by the appointment of the governor, unless otherwise provided for; and the appointees shall hold their places until the next regular election.

SEC. 32. The officers elected at the first election held under this constitution shall hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the general assembly; but their terms shall begin upon the approval of this constitution by the Congress of the United States.

SEC. 33. The several justices of the peace shall have exclusive original jurisdiction, under such regulations as the general assembly shall prescribe, of all civil actions, founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy; and of all criminal matters arising within their counties, where the punishment cannot exceed a fine of fifty dollars, or imprisonment for one month. When an issue of fact shall be joined before a justice, on demand of either party thereto, he shall cause a jury of six men to be summoned, who shall try the same. The party against whom judgment shall be rendered in any civil action may appeal to the superior court from the same, and, if the judgment shall exceed twenty-five dollars, there may be a new trial of the whole matter in the appellate court; but if the judgment shall be for twenty-five dollars or less, then the case shall be heard in the appellate court only upon matters of law. In all cases of a criminal nature, the party against whom judgment is given may appeal to the superior court, where the matter shall be heard anew. In all cases brought before a justice, he shall make a record of the proceedings, and file the same with the clerk of the superior court for his county.

SEC. 34. When the office of justice of the peace shall become vacant, otherwise than by expiration of the term, and in case of a failure by the voters of any district to elect, the clerk of the superior court for the county shall appoint to fill the vacancy for the unexpired term.

SEC. 35. In case the office of clerk of a superior court for a county shall become vacant, otherwise than by the expiration of the term, and in case of a failure by the people to elect, the judge of the superior court for the county shall appoint to fill the vacancy until an election can be regularly held.

ARTICLE V

REVENUE AND TAXATION

SECTION 1. The general assembly shall levy a capitation-tax on every male inhabitant of the State over twenty-one and under fifty years of age, which shall be equal, on each, to the tax on property valued at three hundred dollars in cash. The commissioners of the several counties may exempt from capitation-tax in special cases, on account of poverty and infirmity, and the State and county capitation-tax combined shall never exceed two dollars on the head.

Sec. 2. The proceeds of the State and county capitation-tax shall be applied to the purposes of education and the support of the poor, but in no one year shall more than twenty-five per cent. thereof be appropriated to the latter purpose.

Sec. 3. Laws shall be passed, taxing by a uniform rule all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise; and, also, all real and personal property, according to its true value in money. The general assembly may also tax trades, professions, franchises, and incomes: *Provided*, That no income shall be taxed when the property from which the income is derived is taxed.

Sec. 4. The general assembly shall, by appropriate legislation and by adequate taxation, provide for the prompt and regular payment of the interest on the public debt, and, after the year 1880, it shall lay a specific annual tax upon the real and personal property of the State, and the sum thus realized shall be set apart as a sinking-fund, to be devoted to the payment of the public debt.

Sec. 5. Until the bonds of the State shall be at par, the general assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the State, except to supply a casual deficit, or for suppressing invasion or insurrection, unless it shall in the same bill levy a special tax to pay the interest annually. And the general assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except to aid in the completion of such railroads as may be unfinished at the time of the adoption of this constitution, or in which the State has a direct pecuniary interest, unless the subject be submitted to a direct vote of the people of the State, and be approved by a majority of those who shall vote thereon.

Sec. 6. Property belonging to the State, or to municipal corporations, shall be exempt from taxation. The general assembly may exempt cemeteries, and property held for educational, scientific, literary, charitable, or religious purposes; also, wearing-apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers, libraries, and scientific instruments, to a value not exceeding three hundred dollars.

Sec. 7. The taxes levied by the commissioners of the several counties, for county purposes, shall be levied in like manner with the State taxes, and shall never exceed the double of the State tax, except for a special purpose, and with the special approval of the general assembly.

Sec. 8. Every act of the general assembly, levying a tax, shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

Article VI

Suffrage and Eligibility to Office

Section 1. Every male person born in the United States, and every male person who has been naturalized, twenty-one years old or upward, who shall have resided in this State twelve months next preceding the election, and thirty days in the county in which he offers to vote, shall be deemed an elector.

SEC. 2. It shall be the duty of the general assembly to provide from time to time, for the registration of all electors, and no person shall be allowed to vote without registration, or to register, without first taking an oath or affirmation to support and maintain the Constitution and laws of the United States, and the constitution and laws of North Carolina, not inconsistent therewith.

SEC. 3. All elections by the people shall be by ballot, and all elections by the general assembly shall be *viva voce*.

SEC. 4. Every voter, except as hereinafter provided, shall be eligible to office; but before entering upon the discharge of the duties of his office, he shall take and subscribe the following oath: "I, ——— ———, do solemnly swear [or affirm] that I will support and maintain the Constitution and laws of the United States, and the constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office: so help me God."

SEC. 5. The following classes of persons shall be disqualified for office: first, all persons who shall deny the being of Almighty God; second, all persons who shall have been convicted of treason, perjury, or of any other infamous crime, since becoming citizens of the United States, or of corruption, or malpractice in office, unless such persons shall have been legally restored to the rights of citizenship.

ARTICLE VII

MUNICIPAL CORPORATIONS

SECTION 1. In each county, there shall be elected, biennially, by the qualified voters thereof, as provided for the election of members of the general assembly, the following officers: A treasurer, register of deeds, surveyor, and five commissioners.

SEC. 2. It shall be the duty of the commissioners to exercise a general supervision and control of the penal and charitable institutions, schools, roads, bridges, levying of taxes, and finances of the county, as may be prescribed by law. The register of deeds shall be *ex-officio* clerk of the board of commissioners.

SEC. 3. It shall be the duty of the commissioners first elected in each county to divide the same into convenient districts, to determine the boundaries, and prescribe the names of the said districts, and report the same to the general assembly before the first day of January, 1869.

SEC. 4. Upon the approval of the reports provided for in the foregoing section, by the general assembly, the said districts shall have corporate powers for the necessary purposes of local government, and shall be known as townships.

SEC. 5. In each township there shall be biennially elected, by the qualified voters thereof, a clerk and two justices of the peace, who shall constitute a board of trustees, and shall, under the supervision of the county commissioners, have control of the taxes and finances, roads, and bridges of the township, as may be prescribed by law. The general assembly may provide for the election of a larger number of justices of the peace in cities and towns, and in those townships in which cities and towns are situated. In every township

there shall also be biennially elected a school committee, consisting of three persons, whose duty shall be prescribed by law.

SEC. 6. The township board of trustees shall assess the taxable property of their townships and make return to the county commissioners for revision, as may be prescribed by law. The clerk shall also be *ex-officio* treasurer of the township.

SEC. 7. No county, city, town, or other municipal corporation shall contract any debt, pledge its faith, or loan its credit, nor shall any tax be levied or collected by any officers of the same, except for the necessary expenses thereof, unless by a vote of a majority of the qualified voters therein.

SEC. 8. No money shall be drawn from any county or township treasury except by authority of law.

SEC. 9. All taxes levied by any county, city, town, or township shall be uniform and *ad valorem* upon all property in the same, except property exempted by this constitution.

SEC. 10. The county officers first elected under the provisions of this article shall enter upon their duties ten days after the approval of this constitution by the Congress of the United States.

SEC. 11. The governor shall appoint a sufficient number of justices of the peace in each county, who shall hold their places until sections four, five, and six of this article shall have been carried into effect.

SEC. 12. All charters, ordinances, and provisions relating to municipal corporations shall remain in force until legally changed, unless inconsistent with the provisions of this constitution.

SEC. 13. No county, city, town, or other municipal corporation shall assume or pay, nor shall any tax be levied or collected for the payment of, any debt, or the interest upon any debt, contracted, directly or indirectly, in aid or support of the rebellion.

ARTICLE VIII

CORPORATIONS OTHER THAN MUNICIPAL

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the object of the corporations cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered, from time to time, or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liabilities of the corporations and other means as may be prescribed by law.

SEC. 3. The term "corporation," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts in like cases as natural persons.

SEC. 4. It shall be the duty of the legislature to provide for the organization of cities, towns, and incorporated villages, and to restrict their power of taxation, assessments, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporation.

Article IX

EDUCATION

Section 1. Religion, morality, and knowledge being necessary to good government and happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The general assembly, at its first session under this constitution, shall provide, by taxation and otherwise, for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years.

Sec. 3. Each county of the State shall be divided into a convenient number of districts, in which one or more public schools shall be maintained, at least four months in every year; and if the commissioners of any county shall fail to comply with the aforesaid requirements of this section, they shall be liable to indictment.

Sec. 4. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, and not otherwise specially appropriated by the United States or heretofore by this State; also, all moneys, stocks, bonds, and other property now belonging to any fund for purposes of education; also, the net proceeds that may accrue to the State from sales of estrays, or from fines, penalties, and forfeitures; also, the proceeds of all sales of the swamp-lands belonging to the State; also, all money that shall be paid as an equivalent for exemption from military duty; also, all grants, gifts, or devises that may hereafter be made to this State, and not otherwise appropriated by the grant, gift, or devise, shall be securely invested, and sacredly preserved as an irreducible educational fund, the annual income of which, together with so much of the ordinary revenue of the State as may be necessary, shall be faithfully appropriated for establishing and perfecting in this State a system of free public schools, and for no other purposes or uses whatsoever.

Sec. 5. The University of North Carolina, with its lands, emoluments, and franchises, is under the control of the State, and shall be held to an inseparable connection with the free public-school system of the State.

Sec. 6. The general assembly shall provide that the benefits of the university, as far as practicable, be extended to the youth of the State free of expense for tuition; also, that all the property which has heretofore accrued to the State, or shall hereafter accrue, from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons, shall be appropriated to the use of the university.

Sec. 7. The governor, lieutenant-governor, secretary of state, treasurer, auditor, superintendent of public works, superintendent of public instruction, and attorney-general, shall constitute a State board of education.

Sec. 8. The governor shall be president, and the superintendent of public instruction shall be secretary, of the board of education.

Sec. 9. The board of education shall succeed to all the powers and trusts of the president and directors of the literary fund of North Carolina, and shall have full power to legislate and make all needful

rules and regulations in relation to free public schools and the educational fund of the State; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly, and when so altered, amended, or repealed, they shall not be reenacted by the board.

Sec. 10. The first session of the board of education shall be held at the capital of the State, within fifteen days after the organization of the State government under this constitution; the time of future meetings may be determined by the board.

Sec. 11. A majority of the board shall constitute a quorum for the transaction of business.

Sec. 12. The contingent expenses of the board shall be provided for by the general assembly.

Sec. 13. The board of education shall elect trustees for the university, as follows: One trustee for each county in the State, whose term of office shall be eight years. The first meeting of the board shall be held within ten days after their election, and at this and every subsequent meeting ten trustees shall constitute a quorum. The trustees at their first meeting shall be divided, as equally as may be, into four classes. The seats of the first class shall be vacated at the expiration of two years; of the second class, at the expiration of four years; of the third class, at the expiration of six years; of the fourth class, at the expiration of eight years; so that one-fourth may be chosen every second year.

Sec. 14. The board of education and the president of the university, shall be *ex-officio* members of the board of trustees of the university; and shall, with three other trustees, to be appointed by the board of trustees, constitute the executive committee of the trustees of the University of North Carolina, and shall be clothed with the powers delegated to the executive committee under the existing organization of the institution. The governor shall be *ex-officio* president of the board of trustees and chairman of the executive committee of the university. The board of education shall provide for the more perfect organization of the board of trustees.

Sec. 15. All the privileges, rights, franchises, and endowments heretofore granted to, or conferred upon, the board of trustees of the University of North Carolina by the charter of 1789, or by any subsequent legislation, are hereby vested in the board of trustees, authorized by this constitution, for the perpetual benefit of the university.

Sec. 16. As soon as practicable after the adoption of this constitution, the general assembly shall establish and maintain, in connection with the university, a department of agriculture, of mechanics, of mining, and of normal instruction.

Sec. 17. The general assembly is hereby empowered to enact that every child of sufficient mental and physical ability, shall attend the public schools, during the period between the ages of six and eighteen years, for a term of not less than sixteen months, unless educated by other means.

Article X

HOMESTEADS AND EXEMPTIONS

Section 1. The personal property of any resident of this State, to the value of five hundred dollars, to be selected by such resident,

shall be, and is hereby, exempted from sale under execution, or other final process of any court, issued for the collection of any debt.

SEC. 2. Every homestead, and the dwelling and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or, in lieu thereof, at the option of the owner, any lot in a city, town, or village, with the dwelling and buildings used thereon, owned and occupied by any resident of this State, and not exceeding the value of one thousand dollars, shall be exempted from sale under execution, or other final process, obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for the purchase of said premises.

SEC. 3. The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt, during the minority of his children, or any one of them.

SEC. 4. The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

SEC. 5. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she be the owner of a homestead in her own right.

SEC. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised or bequeathed, and, with the written assent of her husband, conveyed, by her, as if she were unmarried.

SEC. 7. The husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband, the amount thus insured shall be paid over to the wife and children, or the guardian, if under age, for her, or their own use, free from all the claims of the representatives of the husband or any of his creditors.

SEC. 8. Nothing contained in the foregoing sections of this article shall operate to prevent the owner of a homestead from disposing of the same by deed, but no deed made by the owner of a homestead shall be valid without the voluntary signature and assent of his wife, signified on her private examination according to law.

ARTICLE XI

PUNISHMENTS, PENAL INSTITUTIONS, AND PUBLIC CHARITIES

SECTION 1. The following punishments only shall be known to the laws of this State, viz: Death, imprisonment with or without hard labor, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

SEC. 2. The objects of punishments being not only to satisfy justice, but also to reform the offender, and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the general assembly shall so enact.

SEC. 3. The general assembly shall, at its first meeting, make provision for the erection and conduct of a State's prison, or penitentiary, at some central and accessible point within the State.

SEC. 4. The general assembly may provide for the erection of houses of correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed.

SEC. 5. A house or houses of refuge may be established, whenever the public interest may require it, for the correction and instruction of other classes of offenders.

SEC. 6. It shall be required by competent legislation that the structure and superintendence of penal institutions of the State, the county jails, and city police prisons, secure the health and comfort of the prisoners, and that male and female prisoners be never confined in the same room or cell.

SEC. 7. Beneficent provision for the poor, the unfortunate, and orphan being one of the first duties of a civilized and Christian State, the general assembly shall, at its first session, appoint and define the duties of a board of public charities, to whom shall be intrusted the supervision of all charitable and penal State institutions, and who shall annually report to the governor upon their condition, with suggestions for their improvement.

SEC. 8. There shall also, as soon as practicable, be measures devised by the State for the establishment of one or more orphan houses, where destitute orphans may be cared for, educated, and taught some business or trade.

SEC. 9. It shall be the duty of the legislature, as soon as practicable, to devise means for the education of idiots and inebriates.

SEC. 10. The general assembly shall provide that all the deaf-mutes, the blind, and the insane of the State shall be cared for at the charge of the State.

SEC. 11. It shall be steadily kept in view by the legislature and the board of public charities that all penal and charitable institutions should be made as nearly self-supporting as is consistent with the purposes of their creation.

ARTICLE XII

MILITIA

SECTION 1. All able-bodied male citizens of the State of North Carolina between the ages of twenty-one and forty years, who are citizens of the United States, shall be liable to duty in the militia: *Provided*, That all persons who may be adverse to bearing arms, from religious scruples, shall be exempt therefrom.

SEC. 2. The general assembly shall provide for the organizing arming, equipping, and disciplining of the militia, and for paying the same when called into active service.

SEC. 3. The governor shall be commander-in-chief, and have power to call out the militia to execute the law, to suppress riots or insurrection, and to repel invasion.

SEC. 4. The general assembly shall have power to make such exemptions as may be deemed necessary, and to enact laws that may be expedient for the government of the militia.

Article XIII

AMENDMENTS

Section 1. No convention of the people shall be called by the general assembly unless by the concurrence of two-thirds of all the members of each house of the general assembly.

Sec. 2. No part of the constitution of this State shall be altered unless a bill to alter the same shall have been read three times in each house of the general assembly and agreed to by three-fifths of the whole number of members of each house, respectively; nor shall any alteration take place until the bill, so agreed to, shall have been published six months previous to a new election of members to the general assembly. If, after such publication, the alteration proposed by the preceding general assembly shall be agreed to in the first session thereafter by two-thirds of the whole representation in each house of the general assembly, after the same shall have been read three times on three several days in each house, then the said general assembly shall prescribe a mode by which the amendment or amendments may be submitted to the qualified voters of the house of representatives throughout the State, and if, upon comparing the votes given in the whole State, it shall appear that a majority of the voters voting thereon have approved thereof, then, and not otherwise, the same shall become a part of the constitution.

Article XIV

MISCELLANEOUS

Section 1. All indictments which shall have been found, or may hereafter be found, for any crime or offence committed before this constitution takes effect, may be proceeded upon in the proper courts, but no punishment shall be inflicted which is forbidden by this constitution.

Sec. 2. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

Sec. 3. No money shall be drawn from the treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of the public money shall be annually published.

Sec. 4. The general assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor.

Sec. 5. In the absence of any contrary provision, all officers in this State, whether heretofore elected or appointed by the governor, shall hold their positions only until other appointments are made by the governor, or, if the officers are elective, until their successors shall have been chosen and duly qualified, according to the provisions of this constitution.

Sec. 6. The seat of government in this State shall remain at the city of Raleigh.

SEC. 7. No person shall hold more than one lucrative office under the State at the same time: *Provided*, That officers in the militia, justices of the peace, commissioners of public charities, and commissioners appointed for special purposes shall not be considered officers within the meaning of this section.

Done in convention at Raleigh the sixteenth day of March, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States the ninety-second.

CALVIN J. COWLES, *President.*

T. A. BYRNES, *Secretary.*

CONSTITUTION OF NORTH CAROLINA—1876 *

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union, and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do for the more certain security thereof, and for the better government of this State, ordain and establish this Constitution:

ARTICLE I

DECLARATION OF RIGHTS

That the great, general and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people, may be defined and affirmed, we do declare:

SECTION 1. That we hold it to be self-evident that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. That all political power is vested in, and derived from, the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. That the people of this State have the inherent, sole and exclusive right of regulating the internal government and police thereof, and of altering and abolishing their constitution and form of government whenever it may be necessary for their safety and happiness; but every such right should be exercised in pursuance of law, and consistently with the Constitution of the United States.

SEC. 4. That this State shall ever remain a member of the American Union; that the people thereof are a part of the American Nation; that there is no right on the part of the State to secede, and that all attempts, from whatever source or upon whatever pretext, to dissolve

* Verified from official copy furnished by the Secretary of State (1907); no title page; no date; 36 pp. [Editor.]

said Union, or to sever said Nation, ought to be resisted with the whole power of the State.

SEC. 5. That every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. The State shall never assume or pay, or authorize the collection of any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; nor shall the General Assembly assume or pay, or authorize the collection of any tax to pay, either directly or indirectly, expressed or implied, any debt or bond incurred, or issued, by authority of the Convention of the year one thousand eight hundred and sixty-eight, nor any debt or bond, incurred or issued by the Legislature of the year one thousand eight hundred and sixty-eight, at its special session of the year one thousand eight hundred and sixty-eight, or at its regular sessions of the years one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, except the bonds issued to fund the interest on the old debt of the State, unless the proposing to pay the same shall have first been submitted to the people and by them ratified by the vote of a majority of all the qualified voters of the State, at a regular election held for that purpose.

SEC. 7. No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 8. The legislative, executive and supreme judicial powers of the government ought to be forever separate and distinct from each other.

SEC. 9. All power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

SEC. 10. All elections ought to be free.

SEC. 11. In all criminal prosecutions, every man has the right to be informed of the accusation against him and to confront the accusers and witnesses with other testimony, and to have counsel for his defence, and not be compelled to give evidence against himself or to pay costs, jail fees, or necessary witness fees of the defence, unless found guilty.

SEC. 12. No person shall be put to answer any criminal charge, except as hereinafter allowed, but by indictment, presentment or impeachment.

SEC. 13. No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The Legislature may, however, provide other means of trial for petty misdemeanors, with the right of appeal.

SEC. 14. Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 15. General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any person or persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

SEC. 16. There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 17. No person ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty or property, but by the law of the land.

SEC. 18. Every person restrained of his liberty is entitled to a remedy to enquire into the lawfulness thereof, and to remove the same, if unlawful; and such remedy ought not to be denied or delayed.

SEC. 19. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

SEC. 20. The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained, but every individual shall be held responsible for the abuse of the same.

SEC. 21. The privileges of the writ of *habeas corpus* shall not be suspended.

SEC. 22. As political rights and privileges are not dependent upon, or modified by, property, therefore no property qualification ought to affect the right to vote or hold office.

SEC. 23. The people of the State ought not to be taxed, or made subject to the payment of any impost or duty without the consent of themselves, or their representatives in General Assembly freely given.

SEC. 24. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to, and governed by, the civil power. Nothing herein contained shall justify the practice of carrying concealed weapons, or prevent the Legislature from enacting penal statutes against said practice.

SEC. 25. The people have a right to assemble together to consult for their comomn good, to instruct their representatives, and to apply to the Legislature for redress of grievances. But secret political societies are dangerous to the liberties of a free people, and should not be tolerated.

SEC. 26. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the rights of conscience.

SEC. 27. The people have the right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 28. For redress of grievances, and for amending and strengthening the laws, elections should be often held.

SEC. 29. A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 30. No hereditary emoluments, privileges or honors ought to be granted or conferred in this State.

SEC. 31. Perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

SEC. 32. Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal are oppressive, unjust and incompatible with liberty; wherefore no *ex post*

facto law ought to be made. No law taxing retrospectively sales, purchases, or other acts previously done, ought to be passed.

SEC. 33. Slavery and involuntary servitude, otherwise than for crime, whereof the parties shall have been duly convicted, shall be and are hereby forever prohibited within the State.

SEC. 34. The limits and boundaries of the State shall be and remain as they now are.

SEC. 35. All courts shall be open; and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

SEC. 36. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 37. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE II

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative authority shall be vested in two distinct branches, both dependent on the people, to-wit, a Senate and House of Representatives.

SEC. 2. The Senate and House of Representatives shall meet biennially on the first Wednesday after the first Monday in January next after their election; and, when assembled, shall be denominated the General Assembly. Neither House shall proceed upon public business unless a majority of all the members are actually present.

SEC. 3. The Senate shall be composed of fifty Senators, biennially chosen by ballot.

SEC. 4. The Senate Districts shall be so altered by the General Assembly, at the first session after the return of every enumeration by order of Congress, that each Senate District shall contain, as near as may be, an equal number of inhabitants, excluding aliens and Indians not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a Senate District, unless such county shall be equitably entitled to two or more Senators.

SEC. 5. The House of Representatives shall be composed of one hundred and twenty Representatives, biennially chosen by ballot, to be elected by the counties respectively, according to their population, and each county shall have at least one representative in the House of Representatives, although it may not contain the requisite ratio of representation; this apportionment shall be made by the General Assembly at the respective times and periods when the Districts of the Senate are hereinbefore directed to be laid off.

SEC. 6. In making the apportionment in the House of Representatives, the ratio of representation shall be ascertained by dividing the amount of the population of the State, exclusive of that comprehended within those counties, which do not severally contain the one hundred and twentieth part of the population of the State, by the

number of Representatives, less the number assigned to such counties; and in ascertaining the number of the population of the State, aliens and Indians not taxed shall not be included. To each county containing the said ratio and not twice the said ratio, there shall be assigned one Representative; to each county containing two but not three times the said ratio, there shall be assigned two Representatives, and so on progressively, and then the remaining Representatives shall be assigned severally to the counties having the largest fractions.

Sec. 7. Each member of the Senate shall not be less than twenty-five years of age, shall have resided in the State as a citizen two years, and shall have usually resided in the District for which he is chosen, one year immediately preceding his election.

Sec. 8. Each member of the House of Representatives shall be a qualified elector of the State, and shall have resided in the county for which he is chosen, for one year immediately preceding his election.

Sec. 9. In the election of all officers, whose appointment shall be conferred upon the General Assembly by the Constitution, the vote shall be *viva voce*.

Sec. 10. The General Assembly shall have the power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

Sec. 11. The General Assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any person not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime, but shall have power to pass general laws regulating the same.

Sec. 12. The General Assembly shall not pass any private law, unless it shall be made to appear that thirty days' notice of application to pass such a law shall have been given, under such direction and in such manner as shall be provided by law.

Sec. 13. If vacancies shall occur in the General Assembly by death, resignation or otherwise, writs of election shall be issued by the Governor under such regulations as may be prescribed by law.

Sec. 14. No law shall be passed to raise money on the credit of the State, or to pledge the faith of the State, directly or indirectly, for the payment of any debt, or to impose any tax upon the people of the State, or allow the counties, cities or towns to do so, unless the bill for the purpose shall have been read three several times in each House of the General Assembly and passed three several readings, which readings shall have been on three different days, and agreed to by each House respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Sec. 15. The General Assembly shall regulate entails in such manner as to prevent perpetuities.

Sec. 16. Each House shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

Sec. 17. Any member of either House may dissent from and protest against any act or resolve, which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journal.

Sec. 18. The House of Representatives shall choose their own Speaker and other officers.

SEC. 19. The Lieutenant-Governor shall preside in the Senate, but shall have no vote unless it may be equally divided.

SEC. 20. The Senate shall choose its other officers and also a Speaker (*pro tempore*) in the absence of the Lieutenant-Governor, or when he shall exercise the office of Governor.

SEC. 21. The style of the acts shall be: "The General Assembly of North Carolina do enact."

SEC. 22. Each House shall be judge of the qualifications and election of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws; and the two Houses may also jointly adjourn to any future day or other place.

SEC. 23. All bills and resolutions of a legislative nature shall be read three times in each House, before they pass into laws; and shall be signed by the presiding officer of both Houses.

SEC. 24. Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States, and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

SEC. 25. The terms of office for Senator and members of the House of Representatives shall commence at the time of their election.

SEC. 26. Upon motion made and seconded in either house by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.

SEC. 27. The election for members of the General Assembly shall be held for the respective districts and counties, at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year one thousand eight hundred and seventy, and every two years thereafter. But the General Assembly may change the time of holding the elections.

SEC. 28. The members of the General Assembly for the term for which they have been elected shall receive as a compensation for their services the sum of *four dollars* per day for each day of their session, for a period not exceeding sixty days; and should they remain longer in session, they shall serve without compensation. They shall also be entitled to receive ten cents per mile, both while coming to the seat of government and while returning home, the said distance to be computed by the nearest line or route of public travel. The compensation of the presiding officers of the two Houses shall be six dollars per day and mileage. Should an extra session of the General Assembly be called, the members and presiding officers shall receive a like rate of compensation for a period not exceeding twenty days.

ARTICLE III

EXECUTIVE DEPARTMENT

SECTION 1. The Executive Department shall consist of a Governor, in whom shall be vested the supreme executive power of the State, a Lieutenant-Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, and an Attorney-General, who shall be elected for a term of four years by the qualified electors of the State, at the same time and places and in the same manner as

members of the General Assembly are elected. Their term of office shall commence on the first day of January next after their election, and continue until their successors are elected and qualified: *Provided*, that the officers first elected shall assume the duties of their office ten days after the approval of this Constitution by the Congress of the United States, and shall hold their offices four years from and after the first day of January.

SEC. 2. No person shall be eligible as Governor or Lieutenant-Governor unless he shall have attained the age of thirty years, shall have been a citizen of the United States five years, and shall have been a resident of this State for two years next before the election; nor shall the person elected to either of these two offices be eligible to the same office more than four years in any term of eight years, unless the office shall have been cast upon him as Lieutenant-Governor or President of the Senate.

SEC. 3. The return of every election for officers of the Executive Department shall be sealed up and transmitted to the seat of government by the returning officers, directed to the Speaker of the House of Representatives, who shall open and publish the same in the presence of a majority of the members of both Houses of the General Assembly. The person having the highest number of votes respectively shall be declared duly elected; but if two or more be equal and highest in votes for the same office, the one of them shall be chosen by joint ballot of both Houses of the General Assembly. Contested elections shall be determined by a joint ballot of both Houses of the General Assembly in such manner as shall be prescribed by law.

SEC. 4. The Governor, before entering upon the duties of his office shall, in the presence of the members of both branches of the General Assembly, or before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States, and of the State of North Carolina, and that he will faithfully perform the duties appertaining to the office of Governor, to which he has been elected.

SEC. 5. The Governor shall reside at the seat of government of this State, and he shall, from time to time, give the General Assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

SEC. 6. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offences (except in cases of impeachment), upon such conditions as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall biennially communicate to the General Assembly each case of reprieve, commutation or pardon granted, stating the name of each convict, the crime for which he was convicted, the sentence and its date, the date of the commutation, pardon or reprieve and the reasons therefor.

SEC. 7. The officers of the Executive Department and of the public institutions of the State, shall at least five days previous to each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports with his message to the General Assembly; and the Governor may, at any time, require information in writing from the officers in the Executive Department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 8. The Governor shall be Commander-in-Chief of the militia of the State, except when they shall be called into the service of the United States.

SEC. 9. The Governor shall have power, on extraordinary occasions, by and with the advice of the Council of State, to convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

SEC. 10. The Governor shall nominate and, by and with the advice and consent of a majority of the Senators-elect, appoint all officers whose offices are established by this Constitution and whose appointments are not otherwise provided for.

SEC. 11. The Lieutenant-Governor shall be president of the Senate, but shall have no vote unless the Senate be equally divided. He shall, whilst acting as President of the Senate, receive for his services the same pay which shall, for the same period, be allowed to the Speaker of the House of Representatives; and he shall receive no other compensation except when he is acting as Governor.

SEC. 12. In case of the impeachment of the Governor, his failure to qualify, his absence from the State, his inability to discharge the duties of his office, or, in case the office of Governor shall in anywise become vacant, the powers, duties and emoluments of the office shall devolve upon the Lieutenant-Governor until the disability shall cease, or a new Governor shall be elected and qualified. In every case in which the Lieutenant-Governor shall be unable to preside over the Senate, the Senators shall elect one of their own number President of their body; and the powers, duties and emoluments of the office of Governor shall devolve upon him whenever the Lieutenant-Governor shall, for any reason, be prevented from discharging the duties of such office as above provided, and he shall continue as acting Governor until the disabilities are removed, or a new Governor or Lieutenant-Governor shall be elected and qualified. Whenever, during the recess of the General Assembly, it shall become necessary for the President of the Senate to administer the government, the Secretary of State shall convene the Senate, that they may select such President.

SEC. 13. The respective duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, and Attorney-General shall be prescribed by law. If the office of any of said officers shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to appoint another until the disability be removed or his successor be elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in the first section of this article.

SEC. 14. The Secretary of State, Auditor, Treasurer and Superintendent of Public Instruction shall constitute, *ex officio*, the Council of State, who shall advise the Governor in the execution of his office, and three of whom shall constitute a quorum. Their advice and proceedings in this capacity shall be entered in a journal to be kept for this purpose exclusively, and signed by the members present, from any part of which any member may enter his dissent; and such journal shall be placed before the General Assembly when called for by either House. The Attorney-General shall be, *ex officio*, the legal adviser of the Executive Department.

SEC. 15. The officers mentioned in this article, shall, at stated periods, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the time for which they shall have been elected, and the said officers shall receive no other emolument or allowance whatever.

SEC. 16. There shall be a seal of the State, which shall be kept by the Governor, and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State," signed by the Governor and countersigned by the Secretary of State.

SEC. 17. The General Assembly shall establish a Department of Agriculture, Immigration and Statistics, under such regulations as may best promote the agricultural interests of the State, and shall enact laws for the adequate protection and encouragement of sheep husbandry.

ARTICLE IV

JUDICIAL DEPARTMENT

SECTION 1. The distinctions between actions at law and suits in equity, and the forms of all such actions and suits, shall be abolished; and there shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action; and every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment of the same, shall be termed a criminal action. Feigned issues shall also be abolished, and the fact at issue tried by order of Court before a jury.

SEC. 2. The judicial power of the State shall be vested in a court for the trial of Impeachments, a Supreme Court, Superior Courts, Courts of Justice of the Peace, and such other Courts inferior to the Supreme Court as may be established by law.

SEC. 3. The Court for the trial of Impeachments shall be the Senate. A majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal from, and disqualification to hold, office in this State; but the party shall be liable to indictment and punishment according to law.

SEC. 4. The House of Representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the Senators present. When the Governor is impeached, the Chief Justice shall preside.

SEC. 5. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the overt act, or on confession in open Court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

SEC. 6. The Supreme Court shall consist of a Chief Justice and four Associate Justices.

SEC. 7. The terms of the Supreme Court shall be held in the city of Raleigh, as now, unless otherwise provided by the General Assembly.

SEC. 8. The Supreme Court shall have jurisdiction to review, upon appeal, any decision of the Courts below, upon any matter of law or legal inference. And the jurisdiction of said Court over "issues of fact" and "questions of fact" shall be the same exercised by it before the adoption of the Constitution of one thousand eight hundred and sixty-eight, and the Court shall have the power to issue any remedial writs necessary to give it a general supervision and control over the proceedings of the inferior Courts.

SEC. 9. The Supreme Court shall have original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the General Assembly for its action.

SEC. 10. The State shall be divided into nine judicial districts, for each of which a judge shall be chosen; and there shall be held a Superior Court in each county at least twice in each year, to continue for such time in each county as may be prescribed by law. But the General Assembly may reduce or increase the number of districts.

SEC. 11. Every Judge of the Superior Court shall reside in the district for which he is elected. The Judges shall preside in the Courts of the different districts successively, but no Judge shall hold the Courts in the same district oftener than once in four years; but in case of the protracted illness of the Judge assigned to preside in any district, or of any other unavoidable accident to him, by reason of which he shall be unable to preside, the Governor may require any Judge to hold one or more specified terms in said district, in lieu of the Judge assigned to hold the Courts of the said district.

SEC. 12. The General Assembly shall have no power to deprive the Judicial Department of any power or jurisdiction which rightfully pertains to it as a co-ordinate department of the government; but the General Assembly shall allot and distribute that portion of this power and jurisdiction which does not pertain to the Supreme Court, among the other Courts prescribed in this Constitution or which may be established by law, in such manner as it may deem best; provide also a proper system of appeals, and regulate by law, when necessary, the methods of proceeding in the exercise of their powers, of all the Courts below the Supreme Court, so far as the same may be done without conflict with other provisions of this Constitution.

SEC. 13. In all issues of fact, joined in any Court, the parties may waive the right to have the same determined by a jury, in which case the finding of the Judge upon the facts shall have the force and effect of a verdict by a jury.

SEC. 14. The General Assembly shall provide for the establishment of Special Courts, for the trial of misdemeanors, in cities and towns where the same may be necessary.

SEC. 15. The Clerk of the Supreme Court shall be appointed by the Court, and shall hold his office for eight years.

SEC. 16. A Clerk of the Superior Court for each county shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law for the election of members of the General Assembly.

SEC. 17. Clerks of the Superior Courts shall hold their offices for four years.

Sec. 18. The General Assembly shall prescribe and regulate the fees, salaries and emoluments of all officers provided for in this article; but the salaries of the Judges shall not be diminished during their continuance in office.

Sec. 19. The laws of North Carolina, not repugnant to this Constitution, or the Constitution and laws of the United States, shall be in force until lawfully altered.

Sec. 20. Actions at law, and suits in equity, pending when this Constitution shall go into effect, shall be transferred to the Courts having jurisdiction thereof, without prejudice by reason of the change; and all such actions and suits commenced before, and pending at the adoption by the General Assembly of the rules of practice and procedure herein provided for, shall be heard and determined according to the practice now in use, unless otherwise provided for by said rules.

Sec. 21. The Justices of the Supreme Court shall be elected by the qualified voters of the State, as is provided for the election of members of the General Assembly. They shall hold their offices for eight years. The Judges of the Superior Courts, elected at the first election under this amendment, shall be elected in like manner as is provided for Justices of the Supreme Court, and shall hold their offices for eight years. The General Assembly may, from time to time, provide by law that the Judges of the Superior Courts, chosen at succeeding elections, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

Sec. 22. The Superior Court shall be at all times open for the transaction of all business within their jurisdiction, except the trial of issues of fact requiring a jury.

Sec. 23. A Solicitor shall be elected for each Judicial District by the qualified voters thereof, as is prescribed for members of the General Assembly, who shall hold office for the term of four years, and prosecute on behalf of the State, in all criminal actions in the Superior Courts, and advise the officers of justice in his district.

Sec. 24. In each county a Sheriff and Coroner shall be elected by the qualified voters thereof, as is prescribed for members of the General Assembly, and shall hold their offices for two years. In each township there shall be a Constable elected in like manner by the voters thereof, who shall hold his office for two years. When there is no Coroner in a county, the Clerk of the Superior Court for the county may appoint one for special cases. In case of a vacancy existing for any cause in any of the offices created by this section, the Commissioners of the county may appoint to such office for the unexpired term.

Sec. 25. All vacancies occurring in the offices provided for by this Article of the Constitution shall be filled by the appointment of the Governor, unless otherwise provided for, and the appointees shall hold their places until the next regular election for members of the General Assembly, when elections shall be held to fill such offices. If any person, elected or appointed to any of said offices, shall neglect and fail to qualify, such offices shall be appointed to, held and filled as provided in case of vacancies occurring therein. All incumbents of said office shall hold until their successors are qualified.

SEC. 26. The officers elected at the first election held under this Constitution shall hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the General Assembly. But their terms shall begin upon the approval of this Constitution by the Congress of the United States.

SEC. 27. The several Justices of the Peace shall have jurisdiction, under such regulations as the General Assembly shall prescribe, of civil actions, founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy; and of all criminal matters arising within their counties where the punishment cannot exceed a fine of fifty dollars or imprisonment for thirty days. And the General Assembly may give to Justices of the Peace jurisdiction of other civil actions, wherein the value of the property in controversy does not exceed fifty dollars. When an issue of fact shall be joined before a Justice, on demand of either party thereto, he shall cause a jury of six men to be summoned, who shall try the same. The party against whom judgment shall be rendered in any civil action, may appeal to the Superior Court from the same. In all cases of a criminal nature, the party against whom judgment is given may appeal to the Superior Court, where the matter shall be heard anew. In all cases brought before a justice, he shall make a record of the proceedings and file same with the Clerk of the Superior Court for his county.

SEC. 28. When the office of Justice of the Peace shall become vacant otherwise than by expiration of the term, and in case of a failure by the voters of any district to elect, the Clerk of the Superior Court for the county shall appoint to fill the vacancy for the unexpired term.

SEC. 29. In case the office of Clerk of a Superior Court for a county shall become vacant otherwise than by the expiration of the term, and in case of a failure by the people to elect, the Judge of the Superior Court for the county shall appoint to fill the vacancy until an election can be regularly held.

SEC. 30. In case the General Assembly shall establish other Courts inferior to the Supreme Court, the presiding officers and clerks thereof shall be elected in such manner as the General Assembly may from time to time prescribe, and they shall hold their offices for a term not exceeding eight years.

SEC. 31. Any Judge of the Supreme Court or of the Superior Courts, and the presiding officers of such Courts inferior to the Supreme Court as may be established by law, may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both Houses of the General Assembly. The Judge or presiding officer, against whom the General Assembly may be about to proceed, shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either House of the General Assembly shall act thereon.

SEC. 32. Any Clerk of the Supreme Court, or of the Superior Courts, or of such Courts inferior to the Supreme Court as may be established by law, may be removed from office for mental or physical inability; the Clerk of the Supreme Court by the Judges of said Court, the Clerks of the Superior Courts by the Judge riding the district, and the Clerks of such Courts inferior to the Supreme Court

as may be established by law by the presiding officers of said Courts. The Clerk against whom proceedings are instituted shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least ten days before the day appointed to act thereon, and the Clerk shall be entitled to an appeal to the next term of the Superior Court, and thence to the Supreme Court as provided in other cases of appeals.

Sec. 33. The amendments made to the Constitution of North Carolina by this Convention shall not have the effect to vacate any office or term of office now existing under the Constitution of the State and filled or held by virtue of any election or appointment under the said Constitution and the laws of the State made in pursuance thereof.

Article V

Revenue and Taxation

Section 1. The General Assembly shall levy a capitation tax on every male inhabitant in the State over twenty-one and under fifty years of age, which shall be equal on each to the tax on property valued at three hundred dollars in cash. The Commissioners of the several counties may exempt from capitation tax in special cases, on account of poverty and infirmity, and the State and county capitation tax combined shall never exceed two dollars on the head.

Sec. 2. The proceeds of the State and county capitation tax shall be applied to the purposes of education and the support of the poor, but in no one year shall more than twenty-five per cent. thereof be appropriated to the latter purpose.

Sec. 3. Laws shall be passed taxing, by a uniform rule, all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise; and, also, all real and personal property, according to its true value in money. The General Assembly may also tax trades, professions, franchises, and incomes, provided that no income shall be taxed when the property from which the income is derived is taxed.

Sec. 4. Until the bonds of the State shall be at par, the General Assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the State, except to supply a casual deficit, or for suppressing invasions or insurrections, unless it shall in the same bill levy a special tax to pay the interest annually. And the General Assembly shall have no power to give or lend the credit of the State in aid of any person, association or corporation, except to aid in the completion of such railroads as may be unfinished at the time of the adoption of this Constitution, or in which the State has a direct pecuniary interest, unless the subject be submitted to a direct vote of the people of the State, and be approved by the majority of those who shall vote thereon.

Sec. 5. Property belonging to the State, or to municipal corporations, shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, charitable or religious purposes; also wearing apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers, libraries and scientific

instruments, or any other personal property, to a value not exceeding three hundred dollars.

SEC. 6. The taxes levied by the commissioners of the several counties for county purposes shall be levied in like manner with the State taxes, and shall never exceed the double of the State tax, except for a special purpose, and with the special approval of the General Assembly.

SEC. 7. Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

SECTION 1. Every male person born in the United States, and every male person who has been naturalized, twenty-one years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people in the State, except as herein otherwise provided.

SEC. 2. He shall have resided in the State of North Carolina for two years, in the county six months, and in the precinct, ward or other election district, in which he offers to vote, four months next preceding the election: *Provided*, that removal from one precinct, ward or other election district, to another in the same county, shall not operate to deprive any person of the right to vote in the precinct, ward or other election district from which he has removed until four months after such removal. No person who has been convicted, or who has confessed his guilt in open Court upon indictment, of any crime, the punishment of which now is, or may hereafter be imprisonment in the State's Prison shall be permitted to vote unless the said person shall be first restored to citizenship in the manner prescribed by law.

SEC. 3. Every person offering to vote shall be at the time a legally registered voter as herein prescribed and in the manner hereafter provided by law, and the General Assembly of North Carolina shall enact general registration laws to carry into effect the provisions of this article.

SEC. 4. Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language; and before he shall be entitled to vote, he shall have paid, on or before the first day of May of the year in which he proposes to vote, his poll tax for the previous year as prescribed by Article V, sec. 1, of the Constitution. But no male person who was on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States wherein he then resided, and no lineal descendant of any such person shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational qualifications herein prescribed: *Provided*, he shall have registered in accordance with the terms of this section prior to December 1, 1908. The General Assembly shall provide for the registration of all persons entitled to vote without the educational qualifications herein prescribed, and shall, on or before November 1,

1908, provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the right to vote in all elections by the people in this State, unless disqualified under section 2 of this Article: *Provided*, such person shall have paid his poll tax as above required.

SEC. 5. That this amendment to the Constitution is presented and adopted as one indivisible plan for the regulation of the suffrage, with the intent and purpose to so connect the different parts and to make them so dependent upon each other that the whole shall stand or fall together.

SEC. 6. All elections by the people shall be by ballot, and all elections by the General Assembly shall be *viva voce*.

SEC. 7. Every voter in North Carolina, except as in this Article disqualified, shall be eligible to office, but before entering upon the duties of the office he shall take and subscribe the following oath:

"I, ——— ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as ———. So help me, God."

SEC. 8. The following classes of persons shall be disqualified for office: *First*, all persons who shall deny the being of Almighty God. *Second*, all persons who shall have been convicted or confessed their guilt on indictment pending, and whether sentenced or not, or under judgment suspended, of any treason or felony, or of any other crime for which the punishment may be imprisonment in the penitentiary, since becoming citizens of the United States, or of corruption or malpractice in office, unless such person shall be restored to the rights of citizenship in a manner prescribed by law.

SEC. 9. That this amendment to the Constitution shall go into effect on the first day of July, nineteen hundred and two, if a majority of votes cast at the next general election shall be cast in favor of this suffrage amendment.

ARTICLE VII

MUNICIPAL CORPORATIONS

SECTION 1. In each county there shall be elected biennially by the qualified voters thereof, as provided for the election of members of the General Assembly, the following officers: A Treasurer, Register of Deeds, Surveyor and five Commissioners.

SEC. 2. It shall be the duty of the Commissioners to exercise a general supervision and control of the penal and charitable institutions, schools, roads, bridges, levying of taxes, and finances of the county, as may be prescribed by law. The Register of Deeds shall be, *ex officio*, Clerk of the Board of Commissioners.

SEC. 3. It shall be the duty of the Commissioners first elected in each county to divide the same into convenient districts, and to report the same to the General Assembly before the first day of January, 1869.

SEC. 4. Upon the approval of the reports provided for in the foregoing section by the General Assembly, the said districts shall have corporate powers for the necessary purposes of local government, and shall be known as townships.

Sec. 5. In each township there shall be biennially elected by the qualified voters thereof a Clerk and two Justices of the Peace, who shall constitute a Board of Trustees, and shall, under the supervision of the County Commissioners, have control of the taxes and finances, roads and bridges of the townships, as may be prescribed by law. The General Assembly may provide for the election of a large number of the Justices of the Peace in cities and towns and in those townships in which cities and towns are situated. In every township there shall also be biennially elected a School Committee, consisting of three persons, whose duties shall be prescribed by law.

Sec. 6. The Township Board of Trustees shall assess the taxable property of their townships and make returns to the County Commissioners for revision, as may be prescribed by law. The Clerk shall be, *ex officio*, Treasurer of the township.

Sec. 7. No county, city, town or other municipal corporation shall contract any debt, pledge its faith or loan its credit, nor shall any tax be levied or collected by any officers of the same except for the necessary expenses thereof, unless by a vote of the majority of the qualified voters therein.

Sec. 8. No money shall be drawn from any county or township treasury except by authority of law.

Sec. 9. All taxes levied by any county, city, town or township shall be uniform and *ad valorem* upon all property in the same, except property exempted by this Constitution.

Sec. 10. The county officers first elected under the provisions of this Article shall enter upon their duties ten days after the approval of this Constitution by the Congress of the United States.

Sec. 11. The Governor shall appoint a sufficient number of Justices of the Peace in each county, who shall hold their places until sections four, five and six of this Article shall have been carried into effect.

Sec. 12. All charters, ordinances and provisions relating to municipal corporations shall remain in force until legally changed, unless inconsistent with the provisions of this Constitution.

Sec. 13. No county, city, town or other municipal corporation shall assume to pay, nor shall any tax be levied or collected for the payment of any debt, or the interest upon any debt, contracted directly or indirectly in aid or support of the rebellion.

Sec. 14. The General Assembly shall have full power by statute to modify, change or abrogate any and all of the provisions of this Article and substitute others in their place, except sections seven, nine and thirteen.

Article VIII

Corporations other than municipal

Section 1. Corporations may be formed under general laws, but shall not be created by special act except for municipal purposes and in cases where, in the judgment of the Legislature, the object of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

Sec. 2. Dues from corporations shall be secured by such individual liabilities of the corporations and other means as may be prescribed by law.

Sec. 3. The term corporation, as used in this Article, shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

Sec. 4. It shall be the duty of the Legislature to provide for the organization of cities, towns and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses in assessment and in contracting debts by such municipal corporations.

Article IX

EDUCATION

Section 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The General Assembly, at its first session under this Constitution, shall provide by taxation and otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years. And the children of the white race and the children of the colored race shall be taught in separate public schools; but there shall be no discrimination in favor of or to the prejudice of either race.

Sec. 3. Each county of the State shall be divided into a convenient number of districts, in which one or more public schools shall be maintained at least four months in every year; and if the Commissioners of any county shall fail to comply with the aforesaid requirements of this section they shall be liable to indictment.

Sec. 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State and not otherwise appropriated by this State or the United States, also all moneys, stocks, bonds and other property now belonging to any State fund for purposes of education, also the net proceeds of all sales of the swamp lands belonging to the State, and all other grants, gifts or devises that have been or hereafter may be made to the State and not otherwise appropriated by the State or by the terms of the grant, gift or devise, shall be paid into the State Treasury, and, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining in this State a system of free public schools and for no other uses or purposes whatsoever.

Sec. 5. All moneys, stocks, bonds and other property belonging to a county school fund, also the net proceeds from the sale of estrays, also the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties in this State: *Provided*, that the amount collected in

each county shall be annually reported to the Superintendent of Public Instruction.

SEC. 6. The General Assembly shall have power to provide for the election of Trustees of the University of North Carolina, in whom, when chosen, shall be vested all the privileges, rights, franchises and endowments thereof in anywise granted to or conferred upon the Trustees of said University; and the General Assembly may make such provisions, laws and regulations from time to time as may be necessary and expedient for the maintenance and management of said University.

SEC. 7. The General Assembly shall provide that the benefits of the University, as far as practicable, be extended to the youth of the State free of expense for tuition; also that all the property which has heretofore accrued to the State or shall hereafter accrue from escheats, unclaimed dividends or distributive shares of the estates of deceased persons, shall be appropriated to the use of the University.

SEC. 8. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Superintendent of Public Instruction and Attorney-General shall constitute a State Board of Education.

SEC. 9. The Governor shall be President and the Superintendent of Public Instruction shall be Secretary of the Board of Education.

SEC. 10. The Board of Education shall succeed to all the powers and trusts of the President and Directors of the Literary Fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to free public schools and the educational fund of the State; but all acts, rules and regulations of said Board may be altered, amended or repealed by the General Assembly, and when so altered, amended or repealed they shall not be re-enacted by the Board.

SEC. 11. The first session of the Board of Education shall be held at the capital of the State within fifteen days after the organization of the State Government under this Constitution; the time of future meetings may be determined by the Board.

SEC. 12. A majority of the Board shall constitute a quorum for the transaction of business.

SEC. 13. The contingent expenses of the Board shall be provided by the General Assembly.

SEC. 14. As soon as practicable after the adoption of this Constitution the General Assembly shall establish and maintain in connection with the University a department of agriculture, of mechanics, of mining and of normal instruction.

SEC. 15. The General Assembly is hereby empowered to enact that every child of sufficient mental and physical ability shall attend the public schools during the period between the ages of six and eighteen years for a term of not less than sixteen months, unless educated by other means.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

SECTION 1. The personal property of any resident of this State to the value of five hundred dollars, to be selected by such resident, shall be and is hereby exempted from sale under execution or other final process of any court issued for the collection of any debt.

Sec. 2. Every homestead, and the dwellings and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city, town or village, with the dwellings and buildings used thereon, owned and occupied by any resident of this State, and not exceeding the value of one thousand dollars, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes or for payment of obligations contracted for the purchase of said premises.

Sec. 3. The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of his children or any one of them.

Sec. 4. The provisions of sections one and two of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the permises.

Sec. 5. If the owner of a homestead die, leaving a widow but no children, the same shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she be the owner of a homestead in her own right.

Sec. 6. The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations or engagements of her husband, and may be devised and bequeathed, and, with the written assent of her husband, conveyed by her as if she were unmarried.

Sec. 7. The husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband the amount thus insured shall be paid over to the wife and children, or to the guardian if under age, for her or their own use, free from all the claims of the representatives of her husband or any of his creditors.

Sec. 8. Nothing contained in the foregoing sections of this Article shall operate to prevent the owner of a homestead from disposing of the same by deed; but no deed made by the owner of a homestead shall be valid without the voluntary signature and assent of his wife, signified on her private examination according to law.

Article XI

PUNISHMENTS, PENAL INSTITUTIONS AND PUBLIC CHARITIES

Section 1. The following punishments only shall be known to the laws of this State, viz.: death, imprisonment with or without hard labor, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under this State. The foregoing provision for imprisonment with hard labor shall be construed to authorize the employment of such convict labor on public works or highways, or other labor for public benefit, and the farming out thereof, where and in such manner as may be provided by law; but no convict shall be farmed out who has been sentenced on a

charge of murder, manslaughter, rape, attempt to commit rape, or arson: *Provided*, that no convict whose labor may be farmed out shall be punished for any failure of duty as a laborer except by a responsible officer of the State; but the convicts so farmed out shall be at all times under the supervision and control, as to their government and discipline, of the Penitentiary Board or some officer of the State.

Sec. 2. The object of punishment being not only to satisfy justice, but also to reform the offender, and thus prevent crime, murder, arson, burglary and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

Sec. 3. The General Assembly shall, at its first meeting, make provision for the erection and conduct of a State's Prison or Penitentiary at some central and accessible point within the State.

Sec. 4. The General Assembly may provide for the erection of a House of Correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed.

Sec. 5. A House or Houses of Refuge may be established whenever the public interests may require it, for the correction and instruction of other classes of offenders.

Sec. 6. It shall be required by competent legislation that the structure and superintendence of penal institutions of the State, the county jails and city police prisons secure the health and comfort of the prisoners, and that male and female prisoners be never confined in the same room or cell.

Sec. 7. Beneficent provisions for the poor, the unfortunate and orphan being one of the first duties of a civilized and Christian State, the General Assembly shall, at its first session, appoint and define the duties of a Board of Public Charities, to whom shall be entrusted the supervision of all charitable and penal State institutions, and who shall annually report to the Governor upon their condition, with suggestions for their improvement.

Sec. 8. There shall also, as soon as practicable, be measures devised by the State for the establishment of one or more orphan houses, where destitute orphans may be cared for, educated and taught some business or trade.

Sec. 9. It shall be the duty of the Legislature, as soon as practicable, to devise means for the education of idiots and inebriates.

Sec. 10. The General Assembly may provide that the indigent deaf mute, blind and insane, of the State shall be cared for at the charge of the State.

Sec. 11. It shall be steadily kept in view by the Legislature and the Board of Public Charities, that all penal and charitable institutions should be made as nearly self-supporting as is consistent with the purposes of their creation.

Article XII

MILITIA

Section 1. All able-bodied male citizens of the State of North Carolina, between the ages of twenty-one and forty years, who are citizens of the United States, shall be liable to do duty in the militia: *Provided*, that all persons who may be averse to bearing arms, from religious scruples, shall be exempt therefrom.

Sec. 2. The General Assembly shall provide for the organizing, arming, equipping and discipline of the militia, and for paying the same, when called into active service.

Sec. 3. The Governor shall be Commander-in-Chief, and shall have power to call out the militia to execute the law, suppress riots or insurrection, and to repel invasion.

Sec. 4. The General Assembly shall have power to make such exemptions as may be deemed necessary, and enact laws that may be expedient for the government of the militia.

Article XIII

AMENDMENTS

Section 1. No convention of the people of this State shall ever be called by the General Assembly, unless by the concurrence of two-thirds of all the members of each House of the General Assembly, and except the proposition, Convention or No Convention, be first submitted to the qualified voters of the whole State, at the next general election in a manner to be prescribed by law. And should a majority of the votes cast be in favor of said convention, it shall assemble on such day as may be prescribed by the General Assembly.

Sec. 2. No part of the Constitution of this State shall be altered unless a bill to alter the same shall have been agreed to by three-fifths of each House of the General Assembly. And the amendment or amendments so agreed to shall be submitted at the next general election of the qualified voters of the whole State, in such a manner as may be prescribed by law. And in the event of their adoption by a majority of the votes cast, such amendment or amendments shall become part of the Constitution of the State.

Article XIV

MISCELLANEOUS

Section 1. All indictments which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon in the proper Courts, but no punishment shall be inflicted which is forbidden by this Constitution.

Sec. 2. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of the State to fight a duel, shall hold any office in this State.

Sec. 3. No money shall be drawn from the Treasury but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

Sec. 4. The General Assembly shall provide, by proper legislation, for giving to mechanics and laborers an adequate lien on the subject-matter of their labor.

Sec. 5. In the absence of any contrary provision, all officers of this State, whether heretofore elected, or appointed by the Governor, shall hold their positions only until other appointments are made by the

Governor, or, if the officers are elective, until their successors shall have been chosen and duly qualified according to the provisions of this Constitution.

SEC. 6. The seat of government of this State shall remain at the city of Raleigh.

SEC. 7. No person, who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this State, or under any other State or Government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either House of the General Assembly: *Provided*, that nothing herein contained shall extend to officers in the militia, Justices of the Peace, Commissioners of Public Charities, or Commissioners for special purposes.

SEC. 8. All marriages between a white person and a negro, or between a white person and white person of negro descent to the third generation inclusive, are hereby forever prohibited.

NORTH DAKOTA

For organic acts relating to the land now included within North Dakota see in this work:

Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).
District of Louisiana, 1804 (Louisiana, p. 1364).
Territory of Louisiana, 1805 (Louisiana, p. 1373).
Territory of Missouri, 1812 (Missouri, p. 2139).
Act Extending Bounds of Michigan Territory, 1834 (Iowa, p. 1111).
Territory of Wisconsin, 1836 (Wisconsin, 1836, p. 4065).
Territory of Iowa, 1838 (Iowa, p. 1111).
Territory of Minnesota, 1849 (Minnesota, p. 1981).
Territory of Nebraska, 1854 (Kansas, p. 1161).
Enabling act for North Dakota, 1889 (Montana, p. 2281).

TEMPORARY GOVERNMENT FOR THE TERRITORY OF DAKOTA—1861 [a]

[THIRTY-SIXTH CONGRESS, SECOND SESSION]

An Act to provide a temporary Government for the Territory of Dakota, and to create the Office of Surveyor-General therein

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, namely: commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence up the main channel of the same, and along the boundary of the State of Minnesota to Big Stone Lake; thence along the boundary line of the said State of Minnesota to the Iowa line; thence along the boundary line of the State of Iowa to the point of intersection between the Big Sioux and Missouri rivers;

[a] For other statutes of an organic nature relating to the Territory of Dakota see the act to prohibit slavery in, June 19, 1862; to define the veto and other powers of the governor, March 2, 1863; to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation, March 2, 1867; to empower legislature to pass general laws for the incorporation of certain companies, June 10, 1872; to limit the duration of legislative sessions and to fix the pay of members, January 23, 1873; to readjust the western boundary of, February 14, 1873; to declare the true meaning of a certain territorial act, March 2, 1875; to provide for an additional judge, March 3, 1879; to fix number of members and compensation of each house of legislature, June 19, 1878, June 27, 1879; to increase number of members of legislature, June 12, 1884; to reorganize courts and appoint additional justices, July 4, 1884; to limit number of representative districts, March 3, 1885; to limit legislature's power to pass special acts of incorporation, March 3, 1885; to give validity to certain acts of legislature, June 30, 1886; to prohibit various forms of special legislation, July 30, 1886; to permit the erection of counties, July 19, 1888; to reorganize the courts, August 8, 1888.

thence up the Missouri river, and along the boundary line of the Territory of Nebraska, to the mouth of the Niobrara or Running Water river; thence following up the same, in the middle of the main channel thereof to the mouth of the Kehapaha or Turtle Hill river; thence up said river to the forty-third parallel of north latitude; thence due west to the present boundary of the Territory of Washington; thence along the boundary line of Washington Territory, to the forty-ninth degree of north latitude; thence east, along said forty-ninth degree of north latitude to the place of beginning, be, and the same is hereby, organized into a temporary government, by the name of the Territory of Dakota: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries and constitute no part of the Territory of Dakota, until said tribe shall signify their assent to the President of the United States to be included within the said Territory or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed: *Provided, further*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Dakota, shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of said Territory and reprieves for offences against the laws of the United States until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws, and one copy of the executive proceedings, on or before the first day of December in each year, to the President of the United States, and, at the same time, two copies of the laws to the

Speaker of the House of Representatives and the President of the Senate, for the use of Congress; and in case of the death, removal, or resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required, to execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of thirteen members, which may be increased to twenty-six, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly as practicable, among the several counties or districts for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population, (Indians excepted) as nearly as may be; and the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken; and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected, having the highest number of votes in each of the said council districts, for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election, to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties and districts to the council and house of representatives, according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.

SEC. 5. *And be it further enacted*, That every free white male inhabitant of the United States above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and

shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall any law be passed impairing the rights of private property; nor shall any discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and, in the first instance, the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of

land may be in dispute, or when the debt or sum claimed shall exceed one hundred dollars; and the said supreme district courts, respectively, shall possess chancery as well as common-law jurisdiction, and authority for redress of all wrongs committed against the Constitution or laws of the United States, or of the Territory, affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeals in all such cases shall be made to the supreme court of said Territory the same as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of Nebraska Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Nebraska. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Nebraska, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice and associate justices, attorney, and marshal, shall be nominated and, by and with the advice and consent of the Senate,

appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of the said Territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such man(n)er and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars. The said salary shall be paid quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles' travel in going to and returning from said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory. There shall also be appropriated annually a sufficient sum to be expended by the secretary of the Territory and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

Sec. 12. *And be it further enacted*, That the legislative assembly of the Territory of Dakota shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

Sec. 13. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters, qualified to elect members of the legislative assembly, who shall be entitled to the same

rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 14. *And be it further enacted*, That when the land in said Territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in the States hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of Dakota as elsewhere within the United States.

SEC. 17. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor-general for Dakota, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor-general of Nebraska and Kansas, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give him.

SEC. 18. *And be it further enacted*, That so much of the public lands of the United States in the Territory of Dakota, west of its eastern boundary and east and north of the Niobrara, or Running Water river, be formed into a land district, to be called the Yancton district, at such time as the President may direct, the land office for which shall be located at such point as the President may direct, and shall be removed from time to time to other points within said district whenever, in his opinion, it may be expedient.

SEC. 19. *And be it further enacted*, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a register and receiver for said district, who shall respectively be required to reside at the site of said office, and who shall have the same powers, perform the same duties, and be entitled

to the same compensation, as are or may be prescribed by law in relation to other land-offices of the United States.

SEC. 20. *And be it further enacted*, That the river in said Territory heretofore known as the "River aux Jacques," or "James river," shall hereafter be called the Dakota river.

SEC. 21. *And be it further enacted*, That, until Congress shall otherwise direct, that portion of the Territories of Utah and Washington between the forty-first and forty-third degrees of north latitude, and east of the thirty-third meridian of longitude west from Washington, shall be, and is hereby, incorporated into and made a part of the Territory of Nebraska.

Approved, March 2, 1861.

ENABLING ACT FOR NORTH DAKOTA—1889

(See Montana, p. 2281.)

PROCLAMATION ANNOUNCING ADMISSION OF NORTH DAKOTA—1889

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas the Congress of the United States did by an act approved on the twenty-second day of February one thousand eight hundred and eighty-nine provide that the inhabitants of the Territory of Dakota might, upon the conditions prescribed in said act become the States of North Dakota and South Dakota;

And whereas it was provided by said act that the area comprising the Territory of Dakota should, for the purposes of the act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said Territory and that the delegates elected as therein provided to the Constitutional convention in districts north of said parallel should assemble in convention, at the time prescribed in the act, at the city of Bismarck;

And whereas it was provided by the said act that the delegates elected as aforesaid should, after they had met and organized, declare on behalf of the people of North Dakota, that they adopt the Constitution of the United States; whereupon the said convention should be authorized to form a constitution and State Government for the proposed State of North Dakota;

And whereas it was provided by said act that the Constitution so adopted should be republican in form and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence; and that the Convention should, by an ordinance irrevocable without the consent of the United States and the people of said States, make certain provisions prescribed in said act;

And whereas it was provided by said act that the Constitutions of North Dakota and South Dakota should, respectively, incorporate

an agreement to be reached in accordance with the provision of the act, for an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also for the apportionment of the debts and liabilities of said Territory, and that each of said States should obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such States respectively;

And whereas it was provided by said act that the Constitution thus formed for the people of North Dakota should, by an ordinance of the Convention forming the same, be submitted to the people of North Dakota at an election to be held therein on the first Tuesday in October, eighteen hundred and eighty-nine, for ratification or rejection by the qualified voters of said proposed State and that the returns of said election should be made to the Secretary of the Territory of Dakota, who, with the Governor, and Chief Justice thereof, or any two of them, should canvass the same; and if a majority of the legal votes cast should be for the Constitution, the Governor should certify the result to the President of the United States, together with a statement of the votes cast thereon, and upon separate articles or propositions and a copy of said Constitution, articles, propositions and ordinances;

And whereas it has been certified to me by the Governor of the Territory of Dakota that within the time prescribed by said act of Congress a Constitution for the proposed State of North Dakota has been adopted and the same ratified by a majority of the qualified voters of said proposed State in accordance with the conditions prescribed in said act;

And whereas it is also certified to me by the said Governor that at the same time that the body of said Constitution was submitted to a vote of the people, a separate article, numbered twenty and entitled "Prohibition," was also submitted and received a majority of all the votes cast for and against said article as well as a majority of all the votes cast for and against the Constitution, and was adopted.

And whereas a duly authenticated copy of said Constitution, article, ordinances and propositions, as required by said act has been received by me:

Now, therefore, I, Benjamin Harrison, President of the United States of America, do, in accordance with the provisions of the act of Congress aforesaid, declare and proclaim the fact that the conditions imposed by Congress on the State of North Dakota to entitle that State to admission to the Union have been ratified and accepted and that the admission of the said State into the Union is now complete.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this second day of November, in the year of our Lord one thousand eight hundred and [SEAL.] eighty-nine, and of the Independence of the United States of America the one hundred and fourteenth.

BENJ. HARRISON.

By the President:
JAMES G. BLAINE,
Secretary of State.

CONSTITUTION OF NORTH DAKOTA—1889 * [a]

We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this constitution.

Article 1

DECLARATION OF RIGHTS

§ 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

§ 3. The State of North Dakota is an inseparable part of the American union and the constitution of the United States is the supreme law of the land.

§ 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall be forever guaranteed in this state, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

§ 5. The privilege of the writ of habeas corpus shall not be suspended unless when in case of rebellion or invasion, the public safety may require.

§ 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumtion great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted. Witnesses shall not

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* Verified from copy sent by the Secretary of State of North Dakota, March 28, 1907. (N. d.; no title page, Editor.)

The Convention which formed this Constitution assembled at Bismarck, July 4, 1889, adjourned, August 17, 1889, and was adopted by popular vote, October 1, 1889. For the Constitution, 27,441; against the Constitution, 8,107.

"Journal of the Constitutional Convention for North Dakota held at Bismarck, Thursday, July 4, to Aug. 17, 1889, together with the enabling act of Congress and the Proceedings of the joint commission appointed for the equitable division of Territorial Property, Bismarck, North Dakota: Tribune, State Printers and Binders, 1889," pp. 400. Ap. "A,"; "B"; Index.

Official Report of the Proceedings and Debates of the First Constitutional Convention of North Dakota, assembled in the City of Bismarck, July 4th to Aug. 17th, 1889. R. M. Tuttle, Official Stenographer, Bismarck, North Dakota: Tribune, State Printers and Binders, 1889," pp. 925, Constitution, pp. XLIX. Index.

See also, "Journal of the Proceedings of the Constitutional Convention Held under Act of the Legislature at Sioux Falls, Dakota, September, 1885. Printed at the office of S. T. Clover, Sioux Falls Leader, Sioux Falls, Dak," pp. 77, folio. For Proceedings and Debates in this Convention see "Bismarck Daily Tribune, July 4th to Aug. 5th, 1889.

[a] Adopted October 1, 1889; yeas, 27,441; nays, 8,107.

be unreasonably detained, nor be confined in any room where criminals are actually imprisoned.

§ 7. The right of trial by jury shall be secured to all, and remain inviolate; but a jury in civil cases, in courts not of record, may consist of less than twelve men, as may be prescribed by law.

§ 8. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offenses shall be prosecuted criminally by indictment or information. The legislative assembly may change, regulate or abolish the grand jury system.

§ 9. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for jusitfiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

§ 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

§ 11. All laws of a general nature shall have a uniform operation.

§ 12. The military shall be subordinate to the civil power. No standing army shall be maintained by this state in time of peace, and no soldiers shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

§ 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

§ 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation, other than municipal, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived.

§ 15. No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

§ 16. No bill of attainder, ex post facto law, or law impairing the obligations of contracts shall ever be passed.

§ 17. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

§ 18. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

§ 19. Treason against the state shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

§ 20. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

§ 21. The provisions of this constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise.

§ 22. All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, in such courts, and in such cases, as the legislative assembly may, by law, direct.

§ 23. Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

§ 24. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

Article 2

THE LEGISLATIVE DEPARTMENT

§ 25. The legislative power shall be vested in a senate and house of representatives.

§ 26. The senate shall be composed of not less than thirty nor more than fifty members.

§ 27. Senators shall be elected for the term of four years, except as hereinafter provided.

§ 28. No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the state or territory for two years next preceding his election.

§ 29. The legislative assembly shall fix the number of senators, and divide the state into as many senatorial districts as there are senators, which districts as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

§ 30. The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators of one class elected in the year 1890 shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two classes shall be by lot, so that one-half of the senators, as nearly as practicable, may be elected biennially.

§ 31. The senate, at the beginning and close of each regular session, and at such other times as may be necessary, shall elect one of its members president pro tempore, who may take the place of the lieutenant governor under rules prescribed by law.

§ 32. The house of representatives shall be composed of not less than sixty, nor more than one hundred and forty members.

§ 33. Representatives shall be elected for the term of two years.

§ 34. No person shall be a representative who is not a qualified elector in the district from which he may be chosen, and who shall not have attained the age of twenty-one years, and have been a resident of the state or territory for two years next preceding his election.

§ 35. The members of the house of representatives shall be apportioned to and elected at large from each senatorial district. The legislative assembly shall, in the year 1895, and every tenth year, cause an enumeration to be made of all the inhabitants of this state, and shall at its first regular session after each enumeration, and also after each federal census, proceed to fix by law the number of senators, which shall constitute the senate of North Dakota, and the number of representatives which shall constitute the house of representatives of North Dakota, within the limits prescribed by this constitution and at the same session shall proceed to reapportion the state into senatorial districts, as prescribed by this constitution, and to fix the number of members of the house of representatives to be elected from the several senatorial districts; provided, that the legislative assembly may at any regular session, redistrict the state into senatorial districts, and apportion the senators and representatives respectively.

§ 36. The house of representatives shall elect one of its members as speaker.

§ 37. No judge or clerk of any court, secretary of state, attorney general, register of deeds, sheriff or person holding any office of profit under this state, except in the militia or the office of attorney at law, notary public or justice of the peace, and no person holding any office of profit or honor under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, shall hold any office in either branch of the legislative assembly or become a member thereof.

§ 38. No member of the legislative assembly, expelled for corruption, and no person convicted of bribery, perjury or other infamous crime, shall be eligible to the legislative assembly, or to any office in either branch thereof.

§ 39. No member of the legislative assembly shall, during the term for which he was elected, be appointed or elected to any civil office in this state, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the governor, or governor and senate, during the term for which he shall have been elected.

§ 40. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence, in favor of, or against any measures or proposition pending or proposed to be introduced into the legislative assembly, in consideration, or upon conditions, that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such legislative assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other such measure or proposition pending or proposed to be introduced into such legislative assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery. And any person, member of the legislative assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and shall not thereafter be eligible to the legislative assembly, and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

§ 41. The term of service of the members of the legislative assembly shall begin on the first Tuesday in January, next after their election.

§ 42. The members of the legislative assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

§ 43. Any member who has a personal or private interest in any measure or bill proposed or pending before the legislative assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon without the consent of the house.

§ 44. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislative assembly.

§ 45. Each member of the legislative assembly shall receive as a compensation for his services for each session, five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the legislative assembly on the most usual route.

§ 46. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and

may compel the attendance of absent members, in such a manner, and under such a penalty, as may be prescribed by law.

§ 47. Each house shall be the judge of the election returns and qualifications of its own members.

§ 48. Each house shall have the power to determine the rules of proceeding, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member; and shall have all other powers necessary and usual in the legislative assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

§ 49. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the request of one-sixth of those present.

§ 50. The sessions of each house and of the committee of the whole shall be open unless the business is such as ought to be kept secret.

§ 51. Neither house shall, without the consent of the other, adjourn for more than three days nor to any other place than that in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

§ 52. The senate and house of representatives jointly shall be designated as the Legislative Assembly of the State of North Dakota.

§ 53. The legislative assembly shall meet at the seat of government at twelve o'clock noon on the first Tuesday after the first Monday in January, in the year next following the election of the members thereof.

§ 54. In all elections to be made by the legislative assembly, or either house thereof, the members shall vote viva voce, and their votes shall be entered in the journal.

§ 55. The sessions of the legislative assembly shall be biennial, except as otherwise provided in this constitution.

§ 56. No regular session of the legislative assembly shall exceed sixty days, except in case of impeachment, but the first session of the legislative assembly may continue for a period of one hundred and twenty days.

§ 57. Any bill may originate in either house of the legislative assembly, and a bill passed by one house may be amended by the other.

§ 58. No law shall be passed, except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose.

§ 59. The enacting clause of every law shall be as follows: "Be it Enacted by the Legislative Assembly of the State of North Dakota."

§ 60. No bill for the appropriation of money, except for the expenses of the government, shall be introduced after the fortieth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

§ 61. No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be

invalidated thereby only as to so much thereof as shall not be so expressed.

§ 62. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

§ 63. Every bill shall be read three several times, but the first and second readings, and those only, may be upon the same day; and the second reading may be by title of the bill unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

§ 64. No bill shall be revised or amended, nor the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended or extended or so incorporated shall be re-enacted and published at length.

§ 65. No bill shall become a law except by a vote of a majority of all the members-elect in each house, nor unless, on its final passage, the vote be taken by yeas and nays, and the names of those voting be entered on the journal.

§ 66. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislative assembly; immediately before such signing their title shall be publicly read and the fact of signing shall be at once entered on the journal.

§ 67. No act of the legislative assembly shall take effect until July first, after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act) the legislative assembly shall, by a vote of two-thirds of all the members present in each house, otherwise direct.

§ 68. The legislative assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

§ 69. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. For granting divorces.
2. Laying out, opening, altering, or working roads or highways, vacating roads, town plats, streets, alleys or public grounds.
3. Locating or changing county seats.
4. Regulating county or township affairs.
5. Regulating the practice of courts of justice.
6. Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.
7. Changing the rules of evidence in any trial or inquiry.
8. Providing for changes of venue in civil or criminal cases.
9. Declaring any person of age.
10. For limitation of civil actions, or giving effect to informal or invalid deeds.
11. Summoning or impaneling grand or petit juries.
12. Providing for the management of common schools.
13. Regulating the rate of interest on money.
14. The opening or conducting of any election or designating the place of voting.
15. The sale or mortgage of real estate belonging to minors or others under disability.

16. Chartering or licensing ferries, toll bridges or toll roads.
17. Remitting fines, penalties or forfeitures.
18. Creating, increasing or decreasing fees, percentages or allowances of public officers.
19. Changing the law of descent.
20. Granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever.
21. For the punishment of crimes.
22. Changing the names of persons or places.
23. For the assessment or collection of taxes.
24. Affecting estates of deceased persons, minors or others under legal disabilities.
25. Extending the time for the collection of taxes.
26. Refunding money into the state treasury.
27. Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein.
28. Legalizing, except as against the state, the unauthorized or invalid act of any officer.
29. Exempting property from taxation.
30. Restoring to citizenship persons convicted of infamous crimes.
31. Authorizing the creation, extension or impairing of liens.
32. Creating offices, or prescribing the powers or duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.
33. Incorporation of cities, towns or villages, or changing or amending the charter of any town, city or village.
34. Providing for the election of members of the board of supervisors in townships, incorporated towns or cities.
35. The protection of game or fish.

§ 70. In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the legislative assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

Article 3

EXECUTIVE DEPARTMENT

§ 71. The executive power shall be vested in a governor, who shall reside at the seat of government and shall hold his office for the term of two years and until his successor is elected and duly qualified.

§ 72. A lieutenant governor shall be elected at the same time and for the same term as the governor. In case of the death, impeachment, resignation, failure to qualify, absence from the state, removal from office, or the disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability be removed, shall devolve upon the lieutenant governor.

§ 73. No person shall be eligible to the office of governor or lieutenant governor unless he be a citizen of the United States, and a qualified elector of the state, who shall have attained the age of thirty years, and who shall have resided five years next preceding the

election within the state or territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 74. The governor and lieutenant governor shall be elected by the qualified electors of the state at the time and places of choosing members of the legislative assembly. The persons having the highest number of votes for governor and lieutenant governor respectively shall be declared elected, but if two or more shall have an equal and highest number of votes for governor or lieutenant governor, the two houses of the legislative assembly at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

§ 75. The governor shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the legislative assembly on extraordinary occasions. He shall at the commencement of each session communicate to the legislative assembly, by message, information of the condition of the state, and recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the legislative assembly and shall take care that the laws be faithfully executed.

§ 76. The governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; but the legislative assembly may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the legislative assembly at its next regular session, when the legislative assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve. He shall communicate to the legislative assembly at each regular session each case of remission of fine, reprieve, commutation or pardon granted by him, stating the name of the convict, the crime for which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 77. The lieutenant governor shall be president of the senate, but shall have no vote unless they be equally divided. If, during a vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

§ 78. When any office shall from any cause become vacant, and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

§ 79. Every bill which shall have passed the legislative assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign, but if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon the journal, and proceed to reconsider it.

If, after such reconsideration, two-thirds of the members-elect shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members-elect, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law unless the legislative assembly, by its adjournment, prevent its return, in which case it shall be a law unless he shall file the same with his objections, in the office of the secretary of state, within fifteen days after such adjournment.

§ 80. The governor shall have power to disapprove of any item or items, or part or parts of any bill making appropriations of money or property embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items, and part or parts disapproved shall be void, unless enacted in the following manner: If the legislative assembly be in session he shall transmit to the house in which the bill originated a copy of the item or items, or part or parts thereof disapproved, together with his objections thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 81. Any governor of this state who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the legislative assembly shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said legislative assembly, or who threatens any member that he, the said governor, will remove any person or persons from office or position with intent in any manner to influence the action of said member, shall be punished in the manner now, or that may hereafter, be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this state.

§ 82. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, three commissioners of railroads, an attorney general and one commissioner of agriculture and labor, who shall have attained the age of twenty-five years, shall be citizens of the United States, and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government, for the term of two years and until their successors are elected and duly qualified, but no person shall be eligible to the office of treasurer for more than two consecutive terms.

§ 83. The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, commissioners of railroads, attorney general, and commissioner of agriculture and labor, shall be as prescribed by law.

§ 84. Until otherwise provided by law, the governor shall receive an annual salary of three thousand dollars; the lieutenant governor shall receive an annual salary of one thousand dollars; the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, commissioners of railroads and attorney general shall each receive an annual salary of two thousand dollars; the salary of the commissioner of agriculture and labor shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected, and all fees and profits arising from any of the said offices shall be covered into the state treasury.

Article 4

JUDICIAL DEPARTMENT

§ 85. The judicial power of the State of North Dakota shall be vested in a supreme court, district courts, county courts, justices of the peace, and in such other courts as may be created by law for cities, incorporated towns and villages.

§ 86. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the state and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

§ 87. It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and such other original and remedial writs as may be necessary to the proper exercise of its jurisdiction, and shall have authority to hear and determine the same; provided, however, that no jury trial shall be allowed in said supreme court, but in proper cases questions of fact may be sent by said court to a district court for trial.

§ 88. Until otherwise provided by law three terms of the supreme court shall be held each year, one at the seat of government, one at Fargo, in the county of Cass, and one at Grand Forks, in the county of Grand Forks.

§ 89. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

§ 90. The judges of the supreme court shall be elected by the qualified electors of the state at large, and except as may be otherwise provided herein for the first election for judges under this constitution, said judges shall be elected at general elections.

§ 91. The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be six years, and they shall hold their offices until their successors are duly qualified.

§ 92. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot so that one

shall hold his office for the term of three years, one for the term of five years, and one for the term of seven years from the first Monday in December, A. D. 1889. The lots shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the secretary of the territory and filed in his office, unless the secretary of state of North Dakota shall have entered upon the duties of his office, in which event said certification shall be filed therein. The judge having the shortest term to serve, not holding his office by election or appointment to fill a vacancy, shall be chief justice and shall preside at all terms of the supreme court and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead.

§ 93. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof, and who shall hold their offices during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law and by rules of the supreme court not inconsistent with law. The legislative assembly shall make provision for the publication and distribution of the decisions of the supreme court and for the sale of the published volumes thereof.

§ 94. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this state or the Territory of Dakota three years next preceding his election.

§ 95. Whenever the population of the State of North Dakota shall equal 600,000 the legislative assembly shall have the power to increase the number of the judges of the supreme court to five, in which event a majority of said court, as thus increased, shall constitute a quorum.

§ 96. No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

§ 97. The style of all process shall be "The State of North Dakota." All prosecutions shall be carried on in the name and by the authority of the State of North Dakota, and conclude "against the peace and dignity of the State of North Dakota."

§ 98. Any vacancy happening by death, resignation or otherwise in the office of judge of the supreme court shall be filled by appointment, by the governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

§ 99. The judges of the supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected.

§ 100. In case a judge of the supreme court shall be in any way interested in a cause brought before said court, the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said cause.

§ 101. When a judgment or decree is reversed or confirmed by the supreme court, every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be

concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

§ 102. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

§ 103. The district courts shall have original jurisdiction, except as otherwise provided in this constitution, of all causes both at law and equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

§ 104. The state shall be divided into six judicial districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the district court therein, whose term of office shall be four years from the first Monday in January succeeding his election and until his successor is duly qualified. This section shall not be construed as governing the first election of district judges under this constitution.

§ 105. Until otherwise provided by law said districts shall be constituted as follows:

District No. One shall consist of the counties of Pembina, Cavalier, Walsh, Nelson and Grand Forks.

District No. Two shall consist of the counties of Ramsey, Towner, Benson, Pierce, Rolette, Bottineau, McHenry, Church, Renville, Ward, Stevens, Mountraille, Garfield, Flannery and Buford.

District No. Three shall consist of the counties of Cass, Steele and Traill.

District No. Four shall consist of the counties of Richland, Ransom, Sargent, Dickey and McIntosh.

District No. Five shall consist of the counties of Logan, LaMoure, Stutsman, Barnes, Wells, Foster, Eddy and Griggs.

District No. Six shall consist of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Williams, Stark, Hettinger, Bowman, Billings, McKenzie, Dunn, Wallace and Allred, and that portion of the Sioux Indian reservation lying north of the seventh standard parallel.

§ 106. The legislative assembly may whenever two-thirds of the members of each house shall concur therein, but not oftener than once in four years increase the number of said judicial districts and the judges thereof; such districts shall be formed from compact territory and bounded by county lines, but such increase or change in the boundaries of the districts shall not work the removal of any judge from his office during the term for which he may have been elected or appointed.

§ 107. No person shall be eligible to the office of district judge, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided within the State or Territory of Dakota at least two years next preceding his election, nor unless he shall at the time of his election be an elector within the judicial district for which he is elected.

§ 108. There shall be a clerk of the district court in each organized county in which a court is holden who shall be elected by the qualified electors of the county, and shall hold his office for the same term as other county officers. He shall receive such compensation for his services as may be prescribed by law.

§ 109. Writs of error and appeals may be allowed from the decisions of the district courts to the supreme court under such regulations as may be prescribed by law.

COUNTY COURTS

§ 110. There shall be established in each county a county court, which shall be a court of record open at all times and holden by one judge, elected by the electors of the county, and whose term of office shall be two years.

§ 111. The county court shall have exclusive original jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the sale of lands by executors, administrators and guardians, and such other probate jurisdiction as may be conferred by law; provided, that whenever the voters of any county having a population of two thousand or over shall decide by a majority vote that they desire the jurisdiction of said court increased above that limited by this constitution, then said county court shall have concurrent jurisdiction with the district courts in all civil actions where the amount in controversy does not exceed one thousand dollars, and in all criminal actions below the grade of felony, and in case it is decided by the voters of any county to so increase the jurisdiction of said county court, the jurisdiction in cases of misdemeanors arising under state laws which may have been conferred upon police magistrates, shall cease. The qualifications of the judge of the county court in counties where the jurisdiction of said court shall have been increased shall be the same as those of the district judge, except that he shall be a resident of the county at the time of his election, and said county judge shall receive such salary for his services as may be provided by law. In case the voters of any county decide to increase the jurisdiction of said county courts, then such jurisdiction as thus increased shall remain until otherwise provided by law.

JUSTICES OF THE PEACE

§ 112. The legislative assembly shall provide by law for the election of justices of the peace in each organized county within the state. But the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions when the amount in controversy, exclusive of costs, does not exceed two hundred dollars, and in counties where no county court with criminal jurisdiction exists they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come in question. The legislative assembly shall have power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts or elsewhere.

POLICE MAGISTRATES

§ 113. The legislative assembly shall provide by law for the election of police magistrates in cities, incorporated towns, and villages, who in addition to their jurisdiction of all cases arising under the ordinances of said cities, towns and villages, shall be ex-officio justices of the peace of the county in which said cities, towns and villages may be located. And the legislative assembly may confer upon said police magistrates the jurisdiction to hear, try and determine all cases of misdemeanors, and the prosecutions therein shall be by information.

§ 114. Appeals shall lie from the county court, final decisions of justices of the peace and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

MISCELLANEOUS PROVISIONS

§ 115. The time of holding courts in the several counties of a district shall be as prescribed by law, but at least two terms of the district court shall be held annually in each organized county, and the legislative assembly shall make provision for attaching unorganized counties or territories to organized counties for judicial purposes.

§ 116. Judges of the district courts may hold court in other districts than their own under such regulations as shall be prescribed by law.

§ 117. No judge of the supreme or district court shall act as attorney or counselor at law.

§ 118. Until the legislative assembly shall provide by law for fixing the terms of courts, the judges of the supreme and district courts shall fix the terms thereof.

§ 119. No judge of the supreme or district courts shall be elected or appointed to any other than judicial offices or be eligible thereto during the term for which he was elected or appointed such judge. All votes or appointments for either of them for any elective or appointive office except that of judge of the supreme court or district court, given by the legislative assembly of the people, shall be void.

§ 120. Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law, or the powers and duties of such may be conferred upon other courts of justice; but such tribunals or other courts when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

ARTICLE 5

ELECTIVE FRANCHISE

§ 121. Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the state one year, in the county six months and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election:

1. Citizens of the United States.

2. Persons of foreign birth who shall have declared their intention to become citizens, one year and not more than six years prior to such election, conformably to the naturalization laws of the United States.

3. Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.[a]

§ 122. The legislative assembly shall be empowered to make further extensions of suffrage hereafter, at its discretion, to all citizens of mature age and sound mind, not convicted of crime without regard to sex; but no law extending or restricting the right of suffrage shall be in force until adopted by a majority of the electors of the state voting at a general election.

§ 123. Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, going to and returning from such election, and no elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

§ 124. The general elections of the state shall be biennial, and shall be held on the first Tuesday after the first Monday in November; provided, that the first general election under this constitution shall be held on the first Tuesday after the first Monday in November, A. D. 1890.

§ 125. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

§ 126. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of his being stationed therein.

§ 127. No person who is under guardianship, non compos mentis or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, unless restored to civil rights.[a]

§ 128. Any woman having the qualifications enumerated in section 121 of this article as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote for all school officers, and upon all questions pertaining solely to school matters, and be eligible to any school office.

§ 129. All elections by the people shall be by secret ballot, subject to such regulations as shall be provided by law.

Article 6

Municipal corporations

§ 130. The legislative assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts, and money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

Article 7

Corporations other than municipal

§ 131. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, chari-

[a] See amendments, Article 2.

table, educational, penal or reformatory corporations as may be under the control of the state; but the legislative assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

§ 132. All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

§ 133. The legislative assembly shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

§ 134. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the legislative assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of this state shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the state.

§ 135. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

§ 136. No foreign corporation shall do business in this state without having one or more places of business and an authorized agent or agents in the same, upon whom process may be served.

§ 137. No corporation shall engage in any business other than that expressly authorized in its charter.

§ 138. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

§ 139. No law shall be passed by the legislative assembly granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied for such purposes.

§ 140. Every railroad corporation organized and doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in the state for the transaction of its business, where transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock and the amount owned by them respectively; the amount of stock paid in and by whom, and the transfers of said stock; the amount of its assets and liabilities and the names and place of

residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the legislative assembly shall pass laws enforcing by suitable penalties the provisions of this section; provided, the provisions of this section shall not be so construed as to apply to foreign corporations.

§ 141. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

§ 142. Railways heretofore constructed, or that may hereafter be constructed, in this state are hereby declared public highways, and all railroad, sleeping car, telegraph, telephone, and transportation companies of passengers, intelligence and freight, are declared to be common carriers and subject to legislative control; and the legislative assembly shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers, intelligence and freight, as such common carriers, from one point to another in this state; provided, that appeal may be had to the courts of this state from the rates so fixed; but the rates fixed by the legislative assembly or board of railroad commissioners shall remain in force pending the decision of the courts.

§ 143. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with the railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other; and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 144. The term "corporation," as used in this article, shall not be understood as embracing municipalities or political subdivisions of the state unless otherwise expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

§ 145. If a general banking law be enacted, it shall provide for the registry and countersigning by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the state treasurer for the redemption of such notes or bills.

§ 146. Any combination between individuals, corporations, associations or either, having for its object or effect the controlling of the price of any product of the soil or any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited and hereby declared unlawful and against public policy; and any and all franchises heretofore granted or extended, or that may hereafter be granted or extended in this state, whenever the owner or owners thereof violate this article shall be deemed annulled and become void.

Article 8

EDUCATION

§ 147. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the State of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

§ 148. The legislative assembly shall provide, at its first session after the adoption of this constitution, for a uniform system for free public schools throughout the state, beginning with the primary and extending through all grades up to and including the normal and collegiate course.

§ 149. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

§ 150. A superintendent of schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

§ 151. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific and agricultural improvements.

§ 152. All colleges, universities and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

Article 9

SCHOOL AND PUBLIC LANDS

§ 153. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the state by escheat; the proceeds of all gifts and donations to the state for common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual fund for the maintenance of the common schools of the state. It shall be deemed a trust fund, the principal of which shall forever remain inviolate and may be increased but never diminished. The state shall make good all losses thereof.

§ 154. The interest and income of this fund together with the net proceeds of all fines for violation of state laws, and all other sums

which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be for this purpose apportioned among and between all the several common school corporations of the state in proportion to the number of children in each of school age, as may be fixed by law, and no part of the fund shall ever be diverted even temporarily, from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the state; provided, however, that if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund.

§ 155. After one year from the assembling of the first legislative assembly the lands granted to the state from the United States for the support of the common schools, may be sold upon the following conditions and no other. No more than one-fourth of all such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold at any time after the expiration of said ten years. The legislative assembly shall provide for the sale of all school lands subject to the provisions of this article. The coal lands of the state shall never be sold, but the legislative assembly may by general laws provide for leasing the same. The words "coal lands" shall include lands bearing lignite coal.

§ 156. The superintendent of public instruction, governor, attorney general, secretary of state and state auditor shall constitute a board of commissioners, which shall be denominated the "Board of University and School Lands," and subject to the provisions of this article and any law that may be passed by the legislative assembly, said board shall have control of the appraisement, sale, rental and disposal of all school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the state treasurer, under the limitations in section 160 of this article.

§ 157. The county superintendent of common schools, the chairman of the county board, and the county auditor shall constitute boards of appraisal and under the authority of the state board of university and school lands shall appraise all school lands within their respective counties which they may from time to time recommend for sale at their actual value under the prescribed terms and shall first select and designate for sale the most valuable lands.

§ 158. No land shall be sold for less than the appraised value and in no case for less than $10 per acre. The purchaser shall pay one-fifth of the price in cash and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised

before they are sold. No grant or patent for any such lands shall issue until payment is made for the same; provided, that the lands contracted to be sold by the state shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

§ 159. All land, money or other property donated, granted or received from the United States or any other source for a university, school of mines, reform school, agricultural college, deaf and dumb asylum, normal school or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses thereof.

§ 160. All lands mentioned in the preceding section shall be appraised and sold in the same manner and under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools; but a distinct and separate account shall be kept by the proper officers of each of said funds; provided, that the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

§ 161. The legislative assembly shall have authority to provide by law for the leasing of lands granted to the state for educational and charitable purposes; but no such law shall authorize the leasing of said lands for a longer period than five years. Said lands shall only be leased for pasturage and meadow purposes and at a public auction after notice as heretofore provided in case of sale; provided, that all of said school lands now under cultivation may be leased, at the discretion and under the control of the board of university and school lands, for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

§ 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the state, bonds of the United States, bonds of the State of North Dakota or in first mortgages on farm lands in the state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands.[a]

§ 163. No law shall ever be passed by the legislative assembly granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement of

[a] See amendment, Article 6.

any public lands ever be used to diminish, either directly or indirectly, the purchase price of said lands.

§ 164. The legislative assembly shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore, or may hereafter be granted by the United States to the state for purposes other than set forth and named in sections 153 and 159 of this article. And the legislative assembly, in providing for the appraisement, sale, rental and disposal of the same, shall not be subject to the provisions and limitations of this article.

§ 165. The legislative assembly shall pass suitable laws for the safe keeping, transfer and disbursement of the state school funds; and shall require all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan with or without interest or shall deposit in his own name, or otherwise than in the name of the State of North Dakota or shall deposit in any banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid, or purposely allow any portion of the same to remain in his own hands uninvested, except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld, and shall be a felony; and any failure to pay over, produce or account for, the state school funds or any part of the same entrusted to any such officer, as by law required or demanded, shall be held and be taken to be prima facie evidence of such embezzlement.

Article 10

County and Township Organization

§ 166. The several counties in the Territory of Dakota lying north of the seventh standard parallel, as they now exist, are hereby declared to be counties of the State of North Dakota.

§ 167. The legislative assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines; but no new county shall be organized, nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than one thousand bona fide inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships the natural boundaries shall be observed as nearly as may be.

§ 168. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties to be affected thereby at a general election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable proportion of the indebtedness of the county so reduced.

§ 169. The legislative assembly shall provide by general law for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

§ 170. The legislative assembly shall provide by general law for township organization under which any county may organize, whenever a majority of all the legal voters of such county, voting at a general election shall so determine, and whenever any county shall adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of said county by the board of county commissioners may be dispensed with by a majority vote of the people voting at any general election; and the affairs of said county may be transacted by the chairmen of the several township boards of said county and such others as may be provided by law for incorporated cities, towns or villages, within such county.

§ 171. In any county that shall have adopted a system of government by the chairmen of the several township boards, the question of continuing the same may be submitted to the electors of such county at a general election in such a manner as may be provided by law, and if a majority of all the votes cast upon such question shall be against said system of government, then such system shall cease in said county and the affairs of said county shall then be transacted by a board of county commissioners as is now provided by the laws of the Territory of Dakota.

§ 172. Until the system of county government by the chairmen of the several township boards is adopted by any county the fiscal affairs of said county shall be transacted by a board of county commissioners. Said board shall consist of not less than three and not more than five members whose terms of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business, as shall be provided by law.

§ 173. At the first general election held after the adoption of this constitution, and every two years thereafter, there shall be elected in each organized county in the state, a county judge, clerk of court, register of deeds, county auditor, treasurer, sheriff and state's attorney, who shall be electors of the county in which they are elected, and who shall hold their office until their successors are elected and qualified. The legislative assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

Article 11

Revenue and Taxation

§ 174. The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year four mills on the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

§ 175. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

§ 176. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the state, county and municipal corporations, both real and personal, shall be exempt from taxation; and the legislative assembly shall by a general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation; but the legislative assembly may, by law, provide for the payment of a per centum of gross earnings of railroad companies to be paid in lieu of all state, county, township and school taxes on property exclusively used in and about the prosecution of the business of such companies as common carriers, but no real estate of said corporations shall be exempted from taxation in the same manner, and on the same basis as other real estate is taxed, except roadbed, right-of-way, shops and buildings used exclusively in their business as common carriers, and whenever and so long as such law providing for the payment of a per centum on earnings shall be in force, that part of section 179 of this article relating to assessment of railroad property shall cease to be in force.[a]

§ 177. All improvements on land shall be assessed in accordance with section 179, but plowing shall not be considered as an improvement or add to the value of land for the purpose of assessment.

§ 178. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county or other municipal corporation shall be a party.

§ 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, town, village or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this state shall be assessed by the state board of equalization at their actual value and such assessed valuation shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, as a basis for taxation of such property in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts.

§ 180. The legislative assembly may provide for the levy, collection and disposition of an annual poll tax of not more than one dollar and fifty cents on every male inhabitant of this state over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

§ 181. The legislative assembly shall pass all laws necessary to carry out the provisions of this article.

Article 12

PUBLIC DEBT AND PUBLIC WORKS

§ 182. The state may, to meet casual deficits or failure in the revenue, or in case of extraordinary emergencies, contract debts, but

[a] See amendments, Article 5.

such debts shall never in the aggregate exceed the sum of two hundred thousand dollars, exclusive of what may be the debt of North Dakota at the time of the adoption of this constitution. Every such debt shall be authorized by law for certain purposes to be definitely mentioned therein, and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from the passage of such law, and shall specially appropriate the proceeds of such tax to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax discontinued until such debt, both principal and interest, shall have been fully paid. No debt in excess of the limit named shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war, or to provide for public defense in case of threatened hostilities; but the issuing of new bonds to refund existing indebtedness, shall not be construed to be any part or portion of said two hundred thousand dollars.

§ 183. The debt of any county, township, city, town, school district or any other political subdivision, shall never exceed five per centum upon the assessed value of the taxable property therein; provided, that any incorporated city may, by a two-thirds vote, increase such indebtedness three per centum on such assessed value beyond said five per cent limit. In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount of existing indebtedness, whether contracted prior or subsequent to the adoption of this constitution shall be included; provided, further, that any incorporated city may become indebted in any amount not exceeding four per centum on such assessed value without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purpose whatever. All bonds or obligations in excess of the amount of indebtedness permitted by this constitution, given by any city, county, township, town, school district, or any other political subdivision shall be void.

§ 184. Any city, county, township, town, school district, or any other political subdivision incurring indebtedness shall at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt be paid.

§ 185. Neither the state nor any county, city, township, town, school district or any other political subdivision shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the state engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

§ 186. No money shall be paid out of the state treasury except upon appropriation by law and on warrant drawn by the proper officer, and no bills, claims, accounts or demands against the state, or any county or other political subdivision, shall be audited, allowed or paid until

a full itemized statement in writing shall be filed with the officer or officers, whose duty it may be to audit the same.

§ 187. No bond or evidence of indebtedness of the state shall be valid unless the same shall have indorsed thereon a certificate, signed by the auditor and secretary of state, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision shall be valid unless the same have indorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond, or evidence of debt, is issued pursuant to law and is within the debt limit.

Article 13

militia

§ 188. The militia of this state shall consist of all able-bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this state. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for a personal service.

§ 189. The militia shall be enrolled, organized, uniformed, armed and disciplined in such a manner as shall be provided by law, not incompatible with the constitution or laws of the United States.

§ 190. The legislative assembly shall provide by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia; and no other organized body of armed men shall be permitted to perform military duty in this state except the army of the United States, without the proclamation of the governor of the state.

§ 191. All militia officers shall be appointed or elected in such a manner as the legislative assembly shall provide.

§ 192. The commissioned officers of the militia shall be commissioned by the governor, and no commissioned officer shall be removed from office except by sentence of court martial, pursuant to law.

§ 193. The militia forces shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters, parades and elections of officers, and in going to and returning from the same.

Article 14

impeachment and removal from office

§ 194. The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 195. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to the law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the governor or lieutenant governor is on trial, the presiding judge of the supreme court shall preside.

§ 196. The governor and other state and judicial officers, except county judges, justices of the peace and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct, or malfeasance or misbehavior in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of trust or profit under the state. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 197. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency in such manner as may be provided by law.

§ 198. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

§ 199. On trial of impeachment against the governor, the lieutenant governor shall not act as a member of the court.

§ 200. No person shall be tried on impeachment before he shall have been served with a copy thereof, at least twenty days previous to the day set for trial.

§ 201. No person shall be liable to impeachment twice for the same offense.

Article 15

FUTURE AMENDMENTS

§ 202. Any amendment or amendments to this constitution may be proposed in either house of the legislative assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the journal of the house with the yeas and nays taken thereon, and referred to the legislative assembly to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the legislative assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislative assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the legislative assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislative assembly voting thereon, such amendment or amendments shall become a part of the constitution of this state. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Article 16

COMPACT WITH THE UNITED STATES

§ 203. The following article shall be irrevocable without the consent of the United States and the people of this state:

1. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

2. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by this state on lands or property therein belonging to, or which may hereafter be purchased by the United States, or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of congress containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such an extent, as is, or may be provided in the act of congress granting the same.

3. In order that payment of the debts and liabilities contracted or incurred by and on behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of congress approved February 22, 1889, entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held at Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, towit:

This agreement shall take effect and be in force from and after the admission into the union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

The words "State of North Dakota," wherever used in this agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the union prior to the admission into the union of the State of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the union prior to the admission into the union of the State of South Dakota.

The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North

Dakota, and shall pay all warrants issued under and by virtue of that certain act of the legislative assembly of the Territory of Dakota, approved March 8, 1889, entitled "An act to provide for the refunding of outstanding warrants drawn on the capitol building fund."

The State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota, that is to say, the State of North Dakota shall assume and pay the following bonds and indebtedness, towit:

Bonds issued on account of the hospital for insane at Jamestown, North Dakota, the face aggregate of which is $266,000; also, bonds issued on account of the North Dakota university at Grand Forks, North Dakota, the face aggregate of which is $96,700; also, bonds issued on account of the penitentiary at Bismarck, North Dakota, the face aggregate of which is $93,600; also, refunding capitol building warrants dated April 1, 1889, $83,507.46.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, towit:

Bonds issued on account of the hospital for the insane at Yankton, South Dakota, the face aggregate of which is $210,000; also, bonds issued on account of the school for deaf mutes, at Sioux Falls, South Dakota, the face aggregate of which is $51,000; also, bonds issued on account of the university at Vermillion, South Dakota, the face aggregate of which is $75,000; also, bonds issued on account of the penitentiary at Sioux Falls, South Dakota, the face aggregate of which is $94,300; also, bonds issued on account of the agricultural college at Brookings, South Dakota, the face aggregate of which is $97,500; also, bonds issued on account of the normal school at Madison, South Dakota, the face aggregate of which is $49,400; also, bonds issued on account of the school of mines at Rapid City, South Dakota, the face aggregate of which is $33,000; also, bonds issued on account of the reform school at Plankinton, South Dakota, the face aggregate of which is $30,000; also, bonds issued on account of the normal school at Spearfish, South Dakota, the face aggregate of which is $25,000; also, bonds issued on account of the soldiers' home at Hot Springs, South Dakota, the face aggregate of which is $45,000.

The states of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred, on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

The State of South Dakota shall pay to the State of North Dakota $46,500, on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon

to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the territory situated or located within the boundaries of the other state.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 9, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations, since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the legislative assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being chapter 107 of the session laws of 1889 (that is, the part of such sums going to the territory), shall be equally divided between the states of North Dakota and South Dakota, and all taxes heretofore or hereafter paid into said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each state shall be credited also with all balances of appropriations made by the seventeenth legislative assembly of the Territory of Dakota for the account of the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state, as provided in this article; and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and

above the amount charged it. And the State of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of North Dakota as its own debt or liability.

§ 204. Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina and Fort Totten, heretofore declared by the president of the United States; provided, legal process, civil and criminal, of this state, shall extend over such reservations in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

§ 205. The State of North Dakota hereby accepts the several grants of land granted by the United States to the State of North Dakota by an act of congress, entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on equal footing with the original states, and to make donations of public lands to such states," under the conditions and limitations therein mentioned; reserving the right, however, to apply to congress for modification of said conditions and limitations in case of necessity.

Article 17

MISCELLANEOUS

§ 206. The name of this state shall be "North Dakota." The State of North Dakota shall consist of all the territory included within the following boundary, towit: Commencing at a point in the main channel of the Red River of the North, where the forty ninth degree of north latitude crosses the same; thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the seventh standard parallel intersects the same; thence west along said seventh standard parallel produced due west to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

§ 207. The following described seal is hereby declared to be and hereby constituted the Great Seal of the State of North Dakota, towit: A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right a plow, anvil and sledge; on the left a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo toward the setting sun; the foliage of the tree arched by a half circle of forty-two stars, surrounded by the motto "Liberty and Union, Now and Forever, One and Inseparable;" the words "Great Seal" at the top, the words "State of North Dakota" at the bottom; "October 1st" on the left and "1889" on the right. The seal to be two and one-half inches in diameter.

§ 208. The right of the debtor to enjoy the comforts and necessaries of life shall be recognized by wholesome laws, exempting from forced sale to all heads of families a homestead, the value of which

shall be limited and defined by law, and a reasonable amount of personal property; the kind and value shall be fixed by law. This section shall not be construed to prevent liens against the homestead for labor done and materials furnished in the improvement thereof, in such manner as may be prescribed by law.

§ 209. The labor of children under twelve years of age shall be prohibited in mines, factories and workshops in this state.

§ 210. All flowing streams and natural water courses shall forever remain the property of the state for mining, irrigating and manufacturing purposes.

§ 211. Members of the legislative assembly and judicial department, except such inferior officers as may be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of ——— according to the best of my ability, so help me God" (if an oath), (under pains and penalties of perjury), if an affirmation, and no other oath, declaration, or test shall be required as a qualification for any office or public trust.

§ 212. The exchange of "black lists" between corporations shall be prohibited.

§ 213. The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property and shall not be liable for the debts of her husband.

Article 18

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT

§ 214. Until otherwise provided by law, the member of the house of representatives of the United States apportioned to this state, shall be elected at large.

Until otherwise provided by law, the senatorial and representative districts shall be formed, and the senators and the representatives shall be apportioned as follows:

The first district shall consist of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton, in the county of Pembina, and be entitled to one senator and two representatives.

The second district shall consist of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beaulien, Thingvalla, Gardar, Park, Crystal, Elora and Lodema, in the county of Pembina, and be entitled to one senator and two representatives.

The third district shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairia Center, Fertile, Park River and Glenwood, in the county of Walsh, and be entitled to one senator and two representatives.

The fourth district shall consist of the townships of Forest River, Walsh Center, Grafton, Farmington, Ardock, village of Ardock, Harrison, city of Grafton, Oakwood, Martin, Walshville, Pulaski, Acton,

Minto and St. Andrews, in the county of Walsh, and be entitled to one senator and three representatives.

The fifth district shall consist of the townships of Gilby, Johnstown, Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore, and the city of Larimore, Elm Grove, Agnes, Inkster, Elkmount, Oakwood, Niagara, Moraine, Logan and Loretta, in the county of Grand Forks, and be entitled to one senator and two representatives.

The sixth district shall consist of the third, fourth, fifth and sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Levant, in the county of Grand Forks, and be entitled to one senator and two representatives.

The seventh district shall consist of the first and second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union and Washington, in the county of Grand Forks, and be entitled to one senator and two representatives.

The eighth district shall consist of the county of Traill and be entitled to one senator and four representatives.

The ninth district shall consist of the township of Fargo and the city of Fargo, in the county of Cass, and the fractional township number 139 in range 48, and be entitled to one senator and two representatives.

The tenth district shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Addison, Davenport, Casselton and the city of Casselton, in the county of Cass, and be entitled to one senator and three representatives.

The eleventh district shall consist of the townships of Webster, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walberg, Watson, Page, Rich, Ayr, Buffalo, Howes, Eldrid, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the county of Cass, and be entitled to one senator and three representatives.

The twelfth district shall consist of the county of Richland and be entitled to one senator and three representatives.

The thirteenth district shall consist of the county of Sargent and be entitled to one senator and two representatives.

The fourteenth district shall consist of the county of Ransom and be entitled to one senator and two representatives.

The fifteenth district shall consist of the county of Barnes and be entitled to one senator and two representatives.

The sixteenth district shall consist of the counties of Steele and Griggs and be entitled to one senator and two representatives.

The seventeenth district shall consist of the county of Nelson and be entitled to one senator and one representative.

The eighteenth district shall consist of the county of Cavalier and be entitled to one senator and two representatives.

The nineteenth district shall consist of the counties of Towner and Rolette, and be entitled to one senator and one representative.

The twentieth district shall consist of the counties of Benson and Pierce, and be entitled to one senator and two representatives.

The twenty-first district shall consist of the county of Ramsey, and be entitled to one senator and two representatives.

The twenty-second district shall consist of the counties of Eddy, Foster and Wells, and be entitled to one senator and two representatives.

The twenty-third district shall consist of the county of Stutsman, and be entitled to one senator and two representatives.

The twenty-fourth district shall consist of the county of LaMoure, and be entitled to one senator and one representative.

The twenty-fifth district shall consist of the county of Dickey, and be entitled to one senator and two representatives.

The twenty-sixth district shall consist of the counties of Emmons, McIntosh, Logan and Kidder, and be entitled to one senator and two representatives.

The twenty-seventh district shall consist of the county of Burleigh and be entitled to one senator and two representatives.

The twenty-eighth district shall consist of the counties of Bottineau and McHenry, and be entitled to one senator and one representative.

The twenty-ninth district shall consist of the counties of Ward, McLean, and all the unorganized counties lying north of the Missouri river, and be entitled to one senator and one representative.

The thirtieth district shall consist of the counties of Morton and Oliver, and be entitled to one senator and two representatives.

The thirty-first district shall consist of the counties of Mercer, Stark and Billings, and all the unorganized counties lying south of the Missouri river, and be entitled to one senator and one representative.

Article 19

PUBLIC INSTITUTIONS

§ 215. The following public institutions of the state are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the act of congress, approved February 22, 1889, to be disposed of and used in such manner as the legislative assembly may prescribe, subject to the limitations provided in the article on school and public lands contained in this constitution:

First. The seat of government at the city of Bismarck, in the county of Burleigh.

Second. The State University and the School of Mines at the city of Grand Forks, in the county of Grand Forks.

Third. The Agricultural College at the city of Fargo, in the county of Cass.

Fourth. A State Normal School at the city of Valley City, in the county of Barnes; and the legislative assembly in apportioning the grant of eighty thousand acres of land for normal schools made in the act of congress referred to shall grant to the said normal school at Valley City as aforementioned, fifty thousand (50,000) acres,

and said lands are hereby appropriated to said institution for that purpose.

Fifth. The Deaf and Dumb Asylum at the city of Devils Lake, in the county of Ramsey.[a]

Sixth. A State Reform School at the city of Mandan, in the county of Morton.

Seventh. A State Normal School at the city of Mayville, in the county of Traill; and the legislative assembly in apportioning the grant of lands made by congress, in the act aforesaid for state normal schools, shall assign thirty thousand (30,000) acres to the institution hereby located at Mayville, and said lands are hereby appropriated for said purpose.

Eighth. A State Hospital for the Insane and Institution for the Feeble Minded in connection therewith, at the city of Jamestown, in the county of Stutsman. And the legislative assembly shall appropriate twenty thousand acres of the grant of lands made by the act of congress aforesaid for "other educational and charitable institutions" to the benefit and for the endowment of said institution.[b]

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "other educational and charitable institutions," as is allotted by law, viz:

First. A Soldiers' Home, when located, or such other charitable institution as the legislative assembly may determine, at Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.

Second. A Blind Asylum, or such other institution as the legislative assembly may determine, at such place in the county of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the legislative assembly, with a grant of thirty thousand acres.

Third. An Industrial School and School for Manual Training, or such other educational or charitable institution as the legislative assembly may provide, at the town of Ellendale, in the county of Dickey, with a grant of forty thousand acres.

Fourth. A School of Forestry, or such other institution as the legislative assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the legislative assembly.

Fifth. A Scientific School, or such other educational or charitable institution as the legislative assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres; provided, that no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this constitution.

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[a] See amendment, Article 3.

[b] See amendment, Article 4.

Article 20

prohibition

§ 217. No person, association or corporation shall within this state, manufacture for sale or gift, any intoxicating liquors, and no person, association or corporation shall import any of the same for sale or gift, or keep or sell or offer the same for sale, or gift, barter or trade as a beverage. - The legislative assembly shall by law prescribe regulations for the enforcement of the provisions of this article and shall thereby provide suitable penalties for the violation thereof.[a]

Schedule

§ 1. That no inconvenience may arise from a change of territorial government to state government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and bodies corporate shall continue as if no change of government had taken place, and all processes which may, before the organization of the judicial department under this constitution, be issued under the authority of the Territory of Dakota shall be as valid as if issued in the name of the state.

§ 2. All laws now in force in the Territory of Dakota, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

§ 3. All fines, penalties, forfeitures and escheats accruing to the Territory of Dakota shall accrue to the use of the states of North Dakota and South Dakota and may be sued for and recovered by either of said states as necessity may require.

§ 4. All recognizances, bonds, obligations or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the state; all bonds, obligations or other undertakings executed to this territory, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the use therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions which have arisen, or may arise before the organization of the judicial department, under this constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the state.

§ 5. All property, real and personal, and credits, claims and choses in action belonging to the Territory of Dakota at the time of the adoption of this constitution, shall be vested in and become the property of the states of North Dakota and South Dakota.

§ 6. Whenever any two of the judges of the supreme court of the state, elected under the provisions of this constitution shall have qualified in their offices, the causes then pending in the supreme court of the territory on appeal or writ of error from the district courts of any county or subdivision within the limits of this state, and the papers, records and proceedings of said court shall pass into the jurisdiction and possession of the supreme court of the state, except

[a] See amendment, Article 1 (new article).

as otherwise provided in the enabling act of congress, and until so superseded the supreme court of the territory and the judges thereof shall continue, with like powers and jurisdiction as if this constitution has not been adopted. Whenever the judge of the district court of any district elected under the provisions of this constitution shall have qualified in his office, the several causes then pending in the district court of the territory within any county in such district, and the records, papers and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the state for such county, except as provided in the enabling act of congress, and until the district courts of this territory shall be superseded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the territory.

§ 7. Until otherwise provided by law, the seals now in use in the supreme and district courts of this territory are hereby declared to be the seals of the supreme and district courts respectively of the state.

§ 8. Whenever this constitution shall go into effect, the books, records and papers, and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein, until the said court shall have procured a proper seal.

§ 9. The terms "probate court" or "probate judge," whenever occurring in the statutes of the territory, shall, after this constitution goes into effect, be held to apply to the county court or county judge.

§ 10. All territorial, county and precinct officers, who may be in office at the time this constitution takes effect, whether holding their offices under the authority of the United States or of the territory, shall hold and exercise their respective offices, and perform the duties thereof as prescribed in this constitution, until their successors shall be elected and qualified in accordance with the provisions of this constitution, and official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted; and such officers for their term of service, under this constitution, shall receive the same salaries and compensation as is by this constitution or by the laws of the territory, provided for like officers; provided, that the county and precinct officers shall hold their offices for the term for which they were elected. There shall be elected in each organized county in this state, at the election to be held for the ratification of this constitution, a clerk of the district court, who shall hold his office under said election until his successor is duly

elected and qualified. The judges of the district court shall have power to appoint state's attorneys in any organized counties where no such attorneys have been elected, which appointment shall continue until the general election to be held in 1890, and until his successor is elected and qualified.

§ 11. This constitution shall take effect and be in full force immediately upon the admission of the territory as a state.

§ 12. Immediately upon the adjournment of this convention the governor of the territory, or in case of his absence or failure to act, the secretary of the territory, or in case of his absence or failure to act, the president of the constitutional convention shall issue a proclamation, which shall be published and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday in October, 1889, of all the state and district officers created and made elective by this constitution. This constitution shall be submitted for adoption or rejection at said election to a vote of the electors qualified by the laws of this territory to vote at all elections. At the election provided for herein the qualified voters shall vote directly for or against this constitution and for or against the article separately submitted.

§ 13. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given for the period of twenty days in the manner provided by law. Every qualified elector of the territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns for all state and district officers, and members of the legislative assembly, shall be made to the canvassing board hereinafter provided for.

§ 14. The governor, secretary and chief justice, or a majority of them, shall constitute a board of canvassers to canvass the vote of such election for all state and district officers and members of the legislative assembly. The said board shall assemble at the seat of government of the territory on the fifteenth day after the day of such election (or on the following day if such day falls on Sunday), and proceed to canvass the votes on the adoption of this constitution and for all state and district officers and members of the legislative assembly in the manner provided by the laws of the territory for canvassing the vote for delegate to congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the secretary of the territory an abstract certified by them, of the number of votes cast for or against the adoption of the constitution, and for each person for each of said offices, and of the total number of votes cast in each county.

§ All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the State of North Dakota into the union, take the oath required by this constitution, and give the same bond required by the law of the territory to be given in case of like officers of the territory and districts, and shall thereupon enter upon the duties of their respective offices; but the legislative assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

§ 16. The judges of the district court who shall be elected at the election herein provided for shall hold their offices until the first Monday in January, 1893, and until their successors are elected and qualified. All other state officers, except judges of the supreme court, who shall be elected at the election herein provided for, shall hold their offices until the first Monday in January, 1891, and until their successors are elected and qualified. Until otherwise provided by law the judges of the supreme court shall receive for their services the salary of four thousand dollars per annum, payable quarterly; and the district judges shall receive for their services the salary of three thousand dollars per annum, payable quarterly.

§ 17. The governor-elect of the state immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the legislative assembly of the state at the seat of government, on a day to be named in said proclamation, and which shall not be less than fifteen nor more than forty days after the date of such proclamation. And said legislative assembly after organizing shall proceed to elect two senators of the United States for the State of North Dakota; and at said election the two persons who shall receive a majority of all the votes cast by the said senators and representatives shall be elected such United States senators. And the presiding officers of the senate and house of representatives shall each certify the election to the governor and secretary of the State of North Dakota; and the governor and secretary of state shall certify the election of such senators as provided by law.

§ 18. At the election herein provided for there shall be elected a representative to the fifty-first congress of the United States by the electors of the state at large.

§ 19. It is hereby made the duty of the legislative assembly at its first session to provide for the payment of all debts and indebtedness authorized to be incurred by the constitutional convention of North Dakota, which shall remain unpaid after the appropriation made by congress for the same shall have been exhausted.

§ 20. There shall be submitted at the same election at which this constitution is submitted for rejection or adoption, Article 20, entitled "Prohibition," and persons who desire to vote for said article shall have written or printed on their ballots "For Prohibition," and all persons desiring to vote against said article shall have written or printed on their ballots "Against Prohibition." If it shall appear according to the returns herein provided for that a majority of all the votes cast at said election for and against prohibition are for prohibition, then said Article 20 shall be and form a part of this constitution and be in full force and effect as such from the date of the admission of this state into the union. But if a majority of said votes shall appear according to said returns to be against prohibition, then said Article 20 shall be null and void and shall not be a part of this constitution.

§ 21. The agreement made by the joint commission of the constitutional conventions of North Dakota and South Dakota concerning the records, books and archives of the Territory of Dakota, is hereby ratified and confirmed; which agreement is in the words following, that is to say:

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, towit: All records,

books and archives in the offices of the governor and secretary of the territory (except records of articles of incorporation of domestic corporations, returns of election of delegates to the constitutional convention of 1889 for South Dakota, returns of elections held under the so-called local option law, in counties within the limits of South Dakota, bonds of notaries public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all which records and archives are a part of the records and archives of said secretary's office; excepting also, census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all of which are a part of the records and archives of said governor's office.) And the following records, books and archives shall also be the property of the State of North Dakota, towit:

Vouchers in the office or custody of the auditor of this territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota. One warrant register in the office of the treasurer of this territory, being a record of warrants issued under and by virtue of chapter 24 of the laws enacted by the eighteenth legislative assembly of Dakota Territory. All letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota. Paid and cancelled coupons in the same office representing interest on bonds which said state of North Dakota is to assume and pay. Reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroad situated wholly or mainly within the limits of North Dakota. Records and papers of the office of the public examiner of the second district of the territory. Records and papers of the office of the district board of agriculture. Records and papers in the office of the board of pharmacy of the district of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by said states of North Dakota and South Dakota, that is to say:

Appropriation Ledger for years ending November 1889–90—one volume.

The Auditor's Current Warrant Register—one volume.

Insurance Record for 1889—one volume.

Treasurer's Cash Book—" D."

Assessment Ledger—" B."

Dakota Territory Bond Register—one volume.

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota, shall remain at the capitol

of North Dakota until demanded by the legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives, which it is agreed shall be the property of North Dakota, as said State of South Dakota shall desire to have copies or abstracts of.

The expenses of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two states.

§ 22. Should the counties containing lands which form a part of the grant of lands made by congress to the Northern Pacific Railroad company be compelled by law to refund moneys paid for such lands or any of them by purchasers thereof at tax sales thereof, based upon taxes illegally levied upon said lands, then and in that case the State of North Dakota shall appropriate the sum of twenty-five thousand dollars ($25,000) or so much thereof as may be necessary to reimburse said counties for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

§ 23. This constitution shall, after its enrollment, be signed by the president of this convention and the chief clerk thereof, and such delegates as desire to sign the same, whereupon it shall be deposited in the office of the secretary of the territory, where it may be signed at any time by any delegate who shall be prevented from signing the same for any reason at the time of the adjournment of this convention.

§ 24. In case the territorial officers of the Territory of Dakota, or any of them who are now required by law to report to the governor of the territory, annually or biennially, shall prepare and publish such reports covering the transactions of their offices up to the time of the admission of the State of North Dakota into the union; the legislative assembly shall make sufficient appropriations to pay one-half of the cost of such publication.

§ 25. The governor and secretary of the territory are hereby authorized to make arrangements for the meeting of the first legislative assembly, and the inauguration of the state government.

§ 26. The legislative assembly shall provide for the editing, and for the publication, in an independent volume, of this constitution, as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the Declaration of Independence, the Constitution of the United States and the Enabling Act.

Done at Bismarck, Dakota, in open convention, this 17th day of August, A. D. 1889.

F. B. Fancher, *President.*

John G. Hamilton, *Chief Clerk.*

AMENDMENTS TO THE CONSTITUTION OF NORTH DAKOTA

Article 1

The legislative assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets.

Article 2

§ 121. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the state one year and in the county six months, and in the precinct ninety days next preceding any election, shall be a qualified elector at such election:

First—Citizens of the United States.

Second—Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.

§ 127. No person who is under guardianship, non compos mentis or insane shall be qualified to vote at any election; nor any person convicted of treason or felony unless restored to civil rights; and the legislature shall by law establish an educational test as a qualification, and may prescribe penalties for failing, neglecting or refusing to vote at any general election.

Article 3

§ 76. The governor shall have power in conjunction with the board of pardons, of which the governor shall be ex officio a member and the other members of which shall consist of the attorney general of the state of North Dakota, the chief justice of the supreme court of the state of North Dakota, and two qualified electors who shall be appointed by the governor, to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction for all offenses except treason and cases of impeachment; but the legislative assembly may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction of treason the governor shall have the power to suspend the execution of sentence until the case shall be reported to the legislative assembly at its next regular session, when the legislative assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve. The governor shall communicate to the legislative assembly at each regular session each case of remission of fine, reprieve, commutation or pardon granted by the board of pardons, stating the name of the convict, the crime for which he is convicted, the sentence and its date and the date of remission, commutation, pardon or reprieve, with their reasons for granting the same.

Article 4

§ 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in

which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads, and the franchise and all other property of all express companies, freight line companies, car equipment companies, sleeping car companies, dining car companies, telegraph or telephone companies or corporations operated in this state and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization at their actual value, and such assessed value shall be apportioned to the counties, cities, towns, villages, townships and districts in which such railroad companies, express companies, sleeping car companies, dining car companies, telegraph and telephone companies are located, or through which they are operated, as a basis for the taxation of such property, in proportion to the number of miles of such property within such counties, cities, towns, villages, townships and districts, or over which any part of such property is used or operated within such counties, towns, villages, townships and districts. But should any railroad allow any portion of its roadway to be used for any purpose other than the operation of a railroad thereon, such portion of its roadway, while so used, shall be assessed in the manner provided for the assessment of other real property.

ARTICLE 5

Addenda to section 176:

The legislative assembly may further provide that grain grown within the state and held therein in elevators, warehouses and granaries may be taxed at a fixed rate.

ARTICLE 6

§ 162. The moneys of the permanent school fund, and other educational funds, shall be invested only in bonds of school corporations, or of counties or townships within the state, bonds of the United States, bonds of the State of North Dakota, municipal bonds, or on first mortgages on farm lands in the state, not exceeding in amount one-third the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisal of school lands.

OHIO[a]

For organic acts relating to the land now included within Ohio see in this work:

Virginia Act of Cession, 1783 (Illinois, p. 955).
Deed of Cession from Virginia, 1784 (Illinois, p. 957).
Northwest Territorial Government, 1787 (Illinois, p. 957).
Virginia Act of Ratification, 1788 (Illinois, p. 963).
Northwest Territorial Government, 1789 (Illinois, p. 963).
Territorial Government of Indiana, 1800 (Illinois, p. 964).

ENABLING ACT FOR OHIO—1802[b]

[SEVENTH CONGRESS, FIRST SESSION]

An Act to enable the people of the eastern division of the territory northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the eastern division of the territory northwest of the river Ohio be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper, and the said State, when formed, shall be admitted into the Union upon the same footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Bounded on the east by the Pennsylvania line, on the south by the Ohio River, to the mouth of the Great Miami River, on the west by the line drawn due north from the mouth of the Great Miami aforesaid, and on the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east after intersecting the due-north line aforesaid, from the mouth of the Great Miami until it shall intersect Lake Erie or the territorial line, and thence with the same through Lake Erie to the Pennsylvania line aforesaid: *Provided*, That Congress shall be at liberty at any time hereafter either to attach all the territory lying east of the line to be

[a] The territory east of the Mississippi and north of the Ohio and west of Pennsylvania, which had been under the jurisdiction of the province of Quebec before the Revolution, was claimed by Virginia, which State formally ceded its claims to the Federal Government, upon condition that it should be formed into States. The States of Massachusetts, Connecticut, and New York also ceded, at different times, claims to jurisdiction over western lands under their respective colonial charters.

[b] See also the act to grant one-thirty-sixth of public lands in Ohio for school purposes, March 3, 1803; and the act to fix the boundaries of, May 20, 1812.

drawn due north from the mouth of the Miami aforesaid to the territorial line, and north of an east and west line drawn through the southerly extreme of Lake Michigan, running east as aforesaid to Lake Erie, to the aforesaid State, or dispose of it otherwise, in conformity to the fifth article of compact between the original States and the people and States to be formed in the territory northwest of the river Ohio.

SEC. 3. *And be it further enacted*, That all that part of the territory of the United States northwest of the river Ohio, heretofore included in the eastern division of said territory, and not included within the boundary herein prescribed for the said State, is hereby attached to, and made a part of, the Indiana Territory, from and after the formation of the said State, subject, nevertheless, to be hereafter disposed of by Congress, according to the right reserved in the fifth article of the ordinance aforesaid, and the inhabitants therein shall be entitled to the same privileges and immunities, and subject to the same rules and regulations, in all respects whatever, with all other citizens residing within the Indiana Territory.

SEC. 4. *And be it further enacted*, That all male citizens of the United States, who shall have arrived at full age, and resided within the said territory at least one year previous to the day of election, and shall have paid a territorial or county tax, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties within the eastern division aforesaid, in a ratio of one representative to every twelve hundred inhabitants of each county, according to the enumeration taken under the authority of the United States, as near as may be, that is to say, from the county of Trumbull, two representatives; from the county of Jefferson, seven representatives, two of the seven to be elected within what is now known by the county of Belmont, taken from Jefferson and Washington Counties; from the county of Washington, four representatives; from the county of Ross, seven representatives, two of the seven to be elected in what is now known by Fairfield County, taken from Ross and Washington Counties; from the county of Adams, three representatives; from the county of Hamilton, twelve representatives, two of the twelve to be elected in what is now known by Clermont County, taken entirely from Hamilton County; and the elections for the representatives aforesaid shall take place on the second Tuesday of October next, the time fixed by a law of the territory entitled "An act to ascertain the number of free male inhabitants of the age of twenty-one in the territory of the United States northwest of the river Ohio, and to regulate the elections of representatives for the same," for electing representatives to the general assembly, and shall be held and conducted in the same manner as is provided by the aforesaid act, except that the qualifications of electors shall be as herein specified.

SEC. 5. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet at Chillicothe on the first Monday in November next; which convention, when met, shall first determine, by a majority of the whole number

elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said territory, and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government, or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance; and shall form for the people of the said State a constitution and State government, provided the same shall be republican, and not repugnant to the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio.

SEC. 6. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 7. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the eastern State of the said territory, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That the section, number sixteen, in every township, and, where such section has been sold, granted, or disposed of, other lands equivalent thereto and most contiguous to the same, shall be granted to the inhabitants of such township, for the use of schools.

Second. That the six miles reservation, including the salt-springs, commonly called the Scioto salt-springs, the salt-springs near the Muskingum River, and in the military tract, with the sections of land which include the same, shall be granted to the said State for the use of the people thereof, the same to be used under such terms and conditions and regulations as the legislature of the said State shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer period than ten years.

Third. That one-twentieth part of the net proceeds of the lands lying within the said State sold by Congress, from and after the thirtieth day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same, such roads to be laid out under the authority of Congress, with the consent of the several States through which the road shall pass: *Provided always*, That the three foregoing propositions herein offered are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by Congress from and after the thirtieth day of June next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose whatever, for the term of five years from and after the day of sale.

Approved, April 30, 1802.

ACT RECOGNIZING THE STATE OF OHIO—1803

[SEVENTH CONGRESS, SECOND SESSION]

An Act to provide for the due execution of the laws of the United States within the State of Ohio.

Whereas the people of the eastern division of the Territory northwest of the river Ohio did, on the twenty-ninth day of November, one thousand eight hundred and two, form for themselves a constitution and State government, and did give to the said State the name of the "State of Ohio," in pursuance of an act of Congress entitled "An act to enable the people of the eastern division of the territory northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," whereby the said State has become one of the United States of America; in order, therefore, to provide for the due execution of the laws of the United States within the said State of Ohio—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said State of Ohio as elsewhere within the United States.

SEC. 2. *Be it further enacted*, That the said State shall be one district and be called the Ohio district, and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold at the seat of government of the said State three sessions annually; the first to commence on the first Monday in June next, and the two other sessions progressively on the like Monday of every fourth calendar month afterwards, and he shall, in all things, have and exercise the same jurisdiction and powers which are by law given to the judge of the Kentucky district; he shall appoint a clerk for the said district, who shall reside and keep the records of the court at the place of holding the same, and shall receive for the services performed by him the same fees to which the clerk of the Kentucky district is entitled for similar services.

SEC. 3. *Be it further enacted*, That there shall be allowed to the judge of the said district court the annual compensation of one thousand dollars, to commence from the date of his appointment, to be paid quarter-yearly at the Treasury of the United States.

SEC. 4. *Be it further enacted*, That there shall be appointed in the said district a person learned in the law to act as attorney for the United States, who shall, in addition to his stated fees, be paid by the United States two hundred dollars annually, as a full compensation for all extra services.

SEC. 5. *And be it further enacted*, That a marshal shall be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as are prescribed to marshals in other districts, and shall moreover be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

Approved, February 19, 1803.

CONSTITUTION OF OHIO—1802 * [a]

We, the people of the eastern division of the territory of United States northwest of the river Ohio, having the right of admission into the General Government as a member of the Union, consistent with the Constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty-seven, and the law of Congress entitled "An act to enable the people of the eastern division of the territory of the United States northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," in order to establish justice, promote the welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State by the name of the State of Ohio.

Article I

Section 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

Sec. 2. Within one year after the first meeting of the general assembly, and within every subsequent term of four years, an enumeration of all the white male inhabitants above twenty-one years of age shall be made, in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties according to the number of white male inhabitants above twenty-one years of age in each; and shall never be less than twenty-four, nor greater than thirty-six, until the number of white male inhabitants of above twenty-one years of age shall be twenty-two thousand; and after that event, at such ratio that the whole number of representatives shall never be less than thirty-six, nor exceed seventy-two.

Sec. 3. The representatives shall be chosen annually, by the citizens of each county respectively, on the second Tuesday of October.

Sec. 4. No person shall be a representative who shall not have attained the age of twenty-five years, and be a citizen of the United States and an inhabitant of this State; shall also have resided within the limits of the county in which he shall be chosen one year next preceding his election, unless he shall have been absent on the public

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* "Journal of the Convention, of the Territory of the United States Northwest of the Ohio. Begun and held at Chillicothe, on Monday the First Day of November, A. D. 1802, and of the Independence of the United States the Twenty-seventh. Published by authority. Columbus: George Nashee, State Printer. 1827." pp. 42.

"Annual Report of the Secretary of State to the Governor of the State of Ohio. Including the Statistical Report to the General Assembly for he year 1876. Columbus: Nevins & Myers, State Printers, 1877. pp. 35–74.

[a] This constitution was framed by a convention which assembled at Chillicothe November 1, 1802, and completed its labors November 29, 1802. It was not submitted to the people for ratification.

business of the United States or of this State, and shall have paid a State or county tax.

Sec. 5. The senators shall be chosen biennially, by qualified voters for representatives; and, on their being convened in consequence of the first election, they shall be divided by lot, from their respective counties or districts, as near as can be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class, at the expiration of the second year; so that one-half thereof, as near as possible, may be annually chosen forever thereafter.

Sec. 6. The numbers of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the several counties or districts to be established by law according to the number of white male inhabitants of the age of twenty-one years in each, and shall never be less than one-third, nor more than one-half, of the number of representatives.

Sec. 7. No person shall be a senator who has not arrived at the age of thirty years, and is a citizen of the United States; shall have resided two years in the county or district immediately preceding the election, unless he shall have been absent on the public business of the United States or of this State, and shall, moreover, have paid a State or county tax.

Sec. 8. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers, be judges of the qualifications and elections of its members, and sit upon its own adjournments; two-thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members.

Sec. 9. Each house shall keep a journal of its proceedings, and publish them. The yeas and nays of the members, on any question, shall, at the desire of any two of them, be entered on the journals.

Sec. 10. Any two members of either house shall have liberty to dissent from and protest against any act or resolution which they may think injurious to the public or any individual, and have the reasons of their dissent entered on the journals.

Sec. 11. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

Sec. 12. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies.

Sec. 13. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Sec. 14. Each house may punish by imprisonment, during their session, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence: *Provided*, Such imprisonment shall not, at any one time, exceed twenty-four hours.

SEC. 15. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 16. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 17. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house where such bill is so depending shall deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speakers of their respective houses.

SEC. 18. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Ohio.*"

SEC. 19. The legislature of this State shall not allow the following officers of government greater annual salaries than as follows until the year one thousand eight hundred and eight, to wit: The governor not more than one thousand dollars; the judges of the supreme court not more than one thousand dollars each; the presidents of the courts of common pleas not more than eight hundred dollars each; the secretary of state not more than five hundred dollars; the auditor of public accounts not more than seven hundred and fifty dollars; the treasurer not more than four hundred and fifty dollars; no member of the legislature shall receive more than two dollars per day, during his attendance on the legislature, nor more for every twenty-five miles he shall travel in going to and returning from the general assembly.

SEC. 20. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during such time.

SEC. 21. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 22. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws annually.

SEC. 23. The house of representatives shall have the sole power of impeaching, but a majority of all the members must concur in an impeachment. All impeachments shall be tried by the senate, and, when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence; no person shall be convicted without the concurrence of two-thirds of all the senators.

SEC. 24. The governor, and all other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 25. The first session of the general assembly shall commence on the first Tuesday of March next; and forever thereafter the general assembly shall meet on the first Monday of December in every year, and at no other period, unless directed by law, or provided for by this constitution.

Sec. 26. No judge of any court of law or equity, secretary of state, attorney-general, register, clerk of any court of record, sheriff or collector, member of either house of Congress, or person holding any lucrative office under the United States or this State, (provided that the appointments in the militia or justices of the peace shall not be considered lucrative offices,) shall be eligible as a candidate for or have a seat in the general assembly.

Sec. 27. No person shall be appointed to any office within any county who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if the county shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Sec. 28. No person who heretofore hath been, or hereafter may be, a collector or holder of public moneys, shall have a seat in either house of the general assembly until such person shall have accounted for and paid into the treasury all sums for which he may be accountable or liable.

Article II

Section 1. The supreme executive power of this State shall be vested in a governor.

Sec. 2. The governor shall be chosen by the electors of the members of the general assembly, on the second Tuesday of October, at the same places and in the same manner that they shall respectively vote for members thereof. The returns of every election for governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections for governor shall be determined by both houses of the general assembly in such manner as shall be prescribed by law.

Sec. 3. The first governor shall hold his office until the first Monday of December, one thousand eight hundred and five, and until another governor shall be elected and qualified to office; and forever after the governor shall hold his office for the term of two years, and until another governor shall be elected and qualified; but he shall not be eligible more than six years in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States twelve years, and an inhabitant of this State four years next preceding his election.

Sec. 4. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

Sec. 5. He shall have the power to grant reprieves and pardons, after conviction, except in cases of impeachment.

Sec. 6. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

Sec. 7. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties

of their respective offices, and shall take care that the laws be faithfully executed.

Sec. 8. When any officer, the right of whose appointment is by this constitution, vested in the general assembly, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the legislature.

Sec. 9. He may, on extraordinary occasions, convene the general assembly, by proclamation, and shall state to them, when assembled, the purposes for which they shall have been convened.

Sec. 10. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

Sec. 11. In case of disagreement between the two houses, with respect to the time of adjournment, the governor shall have the power to adjourn the general assembly to such time as he thinks proper; provided it be not a period beyond the annual meeting of the legislature.

Sec. 12. In case of the death, impeachment, resignation, or the removal of the governor from office, the speaker of the senate shall exercise the office of governor, until he be acquitted, or another governor shall be duly qualified. In case of impeachment of the speaker of the senate, or his death, removal from office, resignation, or absence from the State, the speaker of the house of representatives shall succeed to the office, and exercise the duties thereof, until a governor shall be elected and qualified.

Sec. 13. No member of Congress, or person holding any office under the United States, or this State, shall execute the office of governor.

Sec. 14. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Ohio."

Sec. 15. All grants and commissions shall be in the name and by the authority of the State of Ohio, sealed with the seal, signed by the governor, and countersigned by the secretary.

Sec. 16. A secretary of state shall be appointed by joint ballot of the senate and house of representatives, who shall continue in office three years, if he shall so long behave himself well: he shall keep a fair register of the official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the legislature; and shall perform such other duties as shall be assigned him by law.

Article III

Section 1. The judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, in courts of common pleas for each county, in justices of the peace, and in such other courts as the legislature may, from time to time, establish.

Sec. 2. The supreme court shall consist of three judges, any two of whom shall be a quorum. They shall have original and appellate jurisdiction, both in common law and chancery, in such cases as shall be directed by law; *Provided*, That nothing herein contained shall prevent the general assembly from adding another judge to the supreme court after the term of five years, in which case the judges

may divide the State into two circuits, within which any two of the judges may hold a court.

SEC. 3. The several courts of common pleas shall consist of a president and associate judges. The State shall be divided by law into three circuits; there shall be appointed in each circuit a president of the courts, who, during his continuance in office, shall reside therein. There shall be appointed in each county, not more than three nor less than two associate judges, who, during their continuance in office, shall reside therein. The president and associate judges, in their respective counties, any three of whom shall be a quorum, shall compose the court of common pleas, which court shall have common-law and chancery jurisdiction in all such cases as shall be directed by law: *Provided*, That nothing herein contained shall be construed to prevent the legislature from increasing the number of circuits and presidents after the term of five years.

SEC. 4. The judges of the supreme court, and courts of common pleas, shall have complete criminal jurisdiction in such cases and in such manner as may be pointed out by law.

SEC. 5. The court of common pleas in each county shall have jurisdiction of all probate and testamentary matters, granting administration, and the appointment of guardians, and such other cases as shall be prescribed by law.

SEC. 6. The judges of the court of common pleas shall, within their respective counties, have the same powers with the judges of the supreme court to issue writs of *certiorari* to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

SEC. 7. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State. The presidents of the courts of common pleas shall, by virtue of their offices, be conservators of the peace in their respective circuits, and the judges of the court of common pleas shall, by virtue of their offices, be conservators of the peace in their respective counties.

SEC. 8. The judges of the supreme court, the presidents, and the associate judges of the courts of common pleas shall be appointed by a joint ballot of both houses of the general assembly, and shall hold their offices for the term of seven years, if so long they behave well. The judges of the supreme court, and the presidents of the courts of common pleas, shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under the authority of this State or the United States.

SEC. 9. Each court shall appoint its own clerk, for the term of seven years; but no person shall be appointed clerk, except *pro tempore*, who shall not produce to the court appointing him a certificate from a majority of the judges of the supreme court that they judge him to be well qualified to execute the duties of the office of clerk to any court of the same dignity with that for which he offers himself. They shall be removable for breach of good behavior, at any time, by the judges of the respective courts.

SEC. 10. The supreme court shall be held once a year in each county; and the courts of common pleas shall be holden in each county at such times and places as shall be prescribed by law.

Sec. 11. A competent number of justices of the peace shall be elected by the qualified electors in each township in the several counties, and shall continue in office three years, whose powers and duties shall, from time to time, be regulated and defined by law.

Sec. 12. The style of all process shall be "The State of Ohio," and all prosecutions shall be carried on in the name and by the authority of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the same."

Article IV

Section 1. In all elections, all white male inhabitants above the age of twenty-one years, having resided in the State one year next preceding the election, and who have paid, or are charged with, a State or county tax, shall enjoy the right of an elector; but no person shall be entitled to vote, except in the county or district in which he shall actually reside at the time of the election.

Sec. 2. All elections shall be by ballot.

Sec. 3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

Sec. 4. The legislature shall have full power to exclude from the privilege of electing, or of being elected, any person convicted of bribery, perjury, or any other infamous crime.

Sec. 5. Nothing contained in this article shall be so construed as to prevent white male persons, above the age of twenty-one years, who are compelled to labor on the roads of their respective townships or counties, and who have resided one year in the State, from having the right of an elector.

Article V

Section 1. Captains and subalterns in the militia shall be elected by those persons in their respective company-districts subject to military duty.

Sec. 2. Majors shall be elected by the captains and subalterns of the battalion.

Sec. 3. Colonels shall be elected by the majors, captains, and subalterns of the regiment.

Sec. 4. Brigadiers-general shall be elected by the commissioned officers of their respective brigades.

Sec. 5. Majors-general and quartermasters-general shall be appointed by joint ballot of both houses of the legislature.

Sec. 6. The governor shall appoint the adjutants-general. The majors-general shall appoint their aids and other staff officers; the brigadiers-general shall appoint their brigade-majors and other brigade-staff officers. The commanding officers of regiments shall appoint their adjutants, quartermasters, and other regimental staff officers; and the captains and subalterns shall appoint their non-commissioned officers and musicians.

Sec. 7. The captains and subalterns of the artillery and cavalry shall be elected by the persons enrolled in their respective corps, and the majors and colonels shall be appointed in such manner as shall be directed by law. The colonels shall appoint their regimental staff, and the captains and subalterns their non-commissioned officers and musicians.

Article VI

Section 1. There shall be elected in each county one sheriff and one coroner, by the citizens thereof who are qualified to vote for members of the assembly; they shall be elected at the time and place of holding elections for members of assembly; they shall continue in office two years, if they shall so long behave well, and until successors be chosen and duly qualified: *Provided*, That no person shall be eligible as sheriff for a longer term than four years in any term of six years.

Sec. 2. The State treasurer and auditor shall be triennially appointed by a joint bollot of both houses of the legislature.

Sec. 3. All town and township officers shall be chosen annually, by the inhabitants thereof duly qualified to vote for members of the assembly, at such time and place as may be directed by law.

Sec. 4. The appointment of all civil officers, not otherwise directed by this constitution, shall be made in such manner as may be directed by law.

Article VII

Section 1. Every person who shall be chosen or appointed to any office of trust or profit under the authority of the State shall, before the entering on the execution thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and also an oath of office.

Sec. 2. Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct; and any person who shall, directly or indirectly, give, promise, or bestow any such reward to be elected, shall thereby be rendered incapable for two years to serve in the office for which he was elected, and be subject to such other punishment as shall be directed by law.

Sec. 3. No new county shall be established by the general assembly, which shall reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of representation.

Sec. 4. Chillicothe shall be the seat of government until the year one thousand eight hundred and eight. No money shall be raised until the year one thousand eight hundred and nine, by the legislature of this State, for the purpose of erecting public buildings for the accommodation of the legislature.

Sec. 5. That, after the year one thousand eight hundred and six, whenever two-thirds of the general assembly shall think it nesessary to amend or change this constitution, they shall recommend to the electors, at the next election for members to the general assembly, to vote for or against a convention; and if it shall appear that a majority of the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly, to be chosen in the same manner, at the same places, and by the same electors that choose the general assembly,

who shall meet within three months after the said election, for the purpose of revising, amending, or changing the constitution. But no alteration of this constitution shall ever take place so as to introduce slavery or involuntary servitude into this State.

SEC. 6. That the limits and boundaries of this State be ascertained, it is declared that they are as hereafter mentioned, that is to say, bounded on the east by the Pennsylvania line; on the south, by the Ohio River, to the mouth of the Great Miami River; on the west, by the line drawn due north from the mouth of the Great Miami aforesaid; and on the north, by an east and west line, drawn through the southerly extreme of Lake Michigan, running east after intersecting the due-north line aforesaid, from the mouth of the Great Miami, until it shall intersect Lake Erie, or the territorial line; and thence with the same through Lake Erie to the Pennsylvania line aforesaid: *Provided always, and it is hereby fully understood and declared by this convention*, That if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie east of the mouth of the Miami River of the Lake, then, and in that case, with the assent of the Congress of the United States, the northern boundary of this State shall be established by, and extending to, a direct line, running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due-north line from the mouth of the Great Miami River as aforesaid; thence northeast to the territorial, and by the said territorial line to the Pennsylvania line.

ARTICLE VIII

That the general, great, and essential principles of liberty and free government may be recognized, and forever unalterably established, we declare—

SECTION 1. That all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety; and every free republican government being founded on their sole authority, and organized for the great purpose of protecting their rights and liberties and securing their independence; to effect these ends, they have at all times a complete power to alter, reform, or abolish their government, whenever they may deem it necessary.

SEC. 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person, arrived at the age of eighteen years, be held to serve any person as a servant, under the pretence of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona-fide* consideration, received, or to be received, for their service, except as before excepted. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of the State, or, if made in the State, where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their conscience; that no human authority can, in any case whatever, control or interfere with the rights of conscience; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; and that no preference shall ever be given by law to any religious society or mode of worship, and no religious test shall be required, as a qualifiation to any office of trust or profit. But religion, morality, and knowledge being essentially necessary to the good government and the happiness of mankind, schools and the means of instruction shall forever be encouraged by legislative provision, not inconsistent with the rights of conscience.

Sec. 4. Private property ought and shall ever be held inviolate, but always subservient to the public welfare; provided a compensation in money be made to the owner.

Sec. 5. That the people shall be secure in their persons, houses, papers, and possessions, from all unwarrantable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without probable evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described, and without oath or affirmation, are dangerous to liberty, and shall not be granted.

Sec. 6. That the printing-presses shall be open and free to every citizen who wishes to examine the proceedings of any branch of government, or the conduct of any public officer; and no law shall ever restrain the right thereof. Every citizen has an indisputable right to speak, write, or print, upon any subject as he thinks proper, being liable for the abuse of that liberty. In prosecutions for any publication respecting the official conduct of men in a public capacity, or where the matter published is proper for public information, the truth thereof may always be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

Sec. 7. That all courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without denial or delay.

Sec. 8. That the right of trial by jury shall be inviolate.

Sec. 9. That no power suspending the laws shall be exercised, unless by the legislature.

Sec. 10. That no person arrested or confined in jail shall be treated with unnecessary rigor, or be put to answer any criminal charge, but by presentment, indictment, or impeachment.

Sec. 11. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or presentment, a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed, and shall not be compelled to give evidence against himself; nor shall he be twice put in jeopardy for the same offence.

Sec. 12. That all persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the pre-

sumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

Sec. 13. Excessive bail shall not be required, excessive fines shall not be imposed, nor cruel and unusual punishments inflicted.

Sec. 14. All penalties shall be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason. When the same undistinguished severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the slightest offences. For the same reasons, a multitude of sanguinary laws are both impolitic and unjust; the true design of all punishments being to reform, not to exterminate, mankind.

Sec. 15. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

Sec. 16. No *ex post facto* law, nor any law impairing the validity of contracts shall ever be made; and no conviction shall work corruption of blood, or forfeiture of estate.

Sec. 17. That no person shall be liable to be transported out of this State for any offence committed within the State.

Sec. 18. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

Sec. 19. That the people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

Sec. 20. That the people have a right to bear arms for the defence of themselves and the State; and as standing armies, in time of peace, are dangerous to liberty, they shall not be kept up, and that the military shall be kept under strict subordination to the civil power.

Sec. 21. That no person in this State, except such as are employed in the Army or Navy of the United States, or militia in actual service, shall be subject to corporeal punishment under the military law.

Sec. 22. That no soldier, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in the manner prescribed by law.

Sec. 23. That the levying taxes by the poll is grievous and oppressive; therefore, the legislature shall never levy a poll-tax for county or State purposes.

Sec. 24. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred by this State.

Sec. 25. That no law shall be passed to prevent the poor in the several counties and townships within this State, from an equal participation in the schools, academies, colleges, and universities within this State, which are endowed, in whole or in part, from the revenues arising from the donations made by the United States for the support of schools and colleges; and the doors of the said schools, academies, and universities shall be open for the reception of scholars, students, and teachers of every grade, without any distinction or

preference whatever, contrary to the intent for which the said donations were made.

SEC. 26. The laws shall be passed by the legislature which shall secure to each and every denomination of religious societies in each surveyed township, which now is or may hereafter be formed in the State, an equal participation, according to their number of adherents, of the profits arising from the land granted by Congress for the support of religion, agreeably to the ordinance or act of Congress making the appropriation.

SEC. 27. That every association of persons, when regularly formed within this State, and having given themselves a name, may, on application to the legislature, be entitled to receive letters of incorporation to enable them to hold estates, real and personal, for the support of their schools, academies, colleges, universities, and for other purposes.

SEC. 28. To guard against the transgressions of the high powers which we have delegated, we declare that all powers not hereby delegated remain with the people.

SCHEDULE

SECTION 1. That no evils or inconveniences may arise from the change of a territorial government to a permanent State government, it is declared by this convention, that all rights, suits, actions, prosecutions, claims, and contracts, both as it respects individuals and bodies-corporate, shall continue as if no change had taken place in this government.

SEC. 2. All fines, penalties, and forfeitures, due and owing to the territory of the United States northwest of the river Ohio, shall inure to the use of the State. All bonds executed to the governor, or any other officer in his official capacity in the Territory, shall pass over to the governor or the other officers of the State, and their successors in office, for the use of the State, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

SEC. 4. All laws and parts of laws now in force in this Territory, not inconsistent with this constitution, shall continue and remain in full effect until repealed by the legislature, except so much of the act entitled "An act regulating the admission and practice of attorneys and counsellors at law," and of the act made amendatory thereto, as relates to the term of time which the applicant shall have studied law, his residence within the Territory, and the term of time which he shall have practised as an attorney at law, before he can be admitted to the degree of a counsellor at law.

SEC. 5. The governor of the State shall make use of his private seal until a State seal be procured.

SEC. 6. The president of the convention shall issue writs of election to the sheriffs of the several counties, requiring them to proceed to the election of a governor, members of the general assembly, sheriffs, and coroners, at the respective election-districts in each county, on the second Tuesday of January next, which elections shall be

conducted in the manner prescribed by the existing election-laws of this Territory; and the members of the general assembly, sheriffs, and coroners then elected, shall continue to exercise the duties of their respective offices until the next annual or biennial election thereafter, as prescribed in this constitution, and no longer.

SEC. 7. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution, the county of Hamilton shall be entitled to four senators and eight representatives; the county of Clermont, one senator and two representatives; the county of Adams, one senator and three representatives; the county of Ross, two senators and four representatives; the county of Fairfield, one senator and two representatives; the county of Washington, two senators and three representatives; the county of Belmont, one senator and two representatives; the county of Jefferson, two senators and four representatives; and the county of Trumbull, one senator and two representatives.

Done in convention, at Chillicothe, on the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and two, and of the Independence of the United States of America, the twenty-seventh.

In testimony whereof we have hereunto subscribed our names.

EDWARD TIFFIN, *President.*

Attest:

THOMAS SCOTT, *Secretary.*

CONSTITUTION OF OHIO—1851 *[a]

We the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this constitution.

ARTICLE I

BILL OF RIGHTS

SECTION 1. All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

SEC. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the General Assembly.

SEC. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the General Assembly for the redress of grievances.

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* The Manual of Legislative Practice in the 77th General Assembly of the State of Ohio, 1906–1908. pp. 137–181.

[a] Done in Convention at Cincinnati, March 10, 1851. As amended and in force January, 1906. See Appendix.

SEC. 4. The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this state; nor involuntary servitude, unless for the punishment of crime.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools, and the means of instruction.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended unless, in cases of rebellion or invasion, the public safety require it.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishment inflicted.

SEC. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offenses, no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment, or indictment of a grand jury. In any trial, in any court, the party accused shall be allowed to appear and defend in person, and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district, in which the offense is alleged to have been committed; nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offense.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter as charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

SEC. 12. No person shall be transported out of the state, for any offense committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

SEC. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law; and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this state.

SEC. 18. No power of suspending laws shall ever be exercised, except by the General Assembly.

SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money, and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

ARTICLE II

LEGISLATIVE

SECTION 1. The legislative power of this state shall be vested in a General Assembly, which shall consist of a Senate, and House of Representatives.

SEC. 2. Senators and representatives shall be elected biennially by the electors of the respective counties or districts, on the first Tuesday after the first Monday in November; their term of office shall commence on the first day of January next thereafter, and continue two years. [As amended October 13, 1885. See Appendix.]

SEC. 3. Senators and representatives shall have resided in their respective counties, or districts, one year next preceding their election, unless they shall have been absent on the public business of the United States, or of this state.

SEC. 4. No person holding office under the authority of the United States, or any lucrative office under the authority of this state, shall be eligible to, or have a seat in, the General Assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia.

Sec. 5. No person hereafter convicted of an embezzlement of the public funds, shall hold any office in this state; nor shall any person, holding public money for disbursement, or otherwise, have a seat in the General Assembly, until he shall have accounted for, and paid such money into the treasury.

Sec. 6. Each house shall be judge of the election, returns, and qualifications of its own members; a majority of all the members elected to each house shall be a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as shall be prescribed by law.

Sec. 7. The mode of organizing the house of representatives, at the commencement of each regular session, shall be prescribed by law.

Sec. 8. Each house, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers, necessary to provide for its safety, and the undisturbed transaction of its business.

Sec. 9. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the journal; and, on the passage of every bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed in either house without the concurrence of a majority of all the members elected thereto.

Sec. 10. Any member of either house shall have the right to protest against any act, or resolution thereof; and such protest, and the reasons therefor, shall, without alteration, commitment, or delay, be entered upon the journal.

Sec. 11. All vacancies which may happen in either house shall, for the unexpired term, be filled by election, as shall be directed by law.

Sec. 12. Senators and Representatives, during the session of the General Assembly, and in going to and returning from the same, shall be privileged from arrest, in all cases, except treason, felony, or breach of the peace; and for any speech, or debate, in either house, they shall not be questioned elsewhere.

Sec. 13. The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

Sec. 14. Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that, in which the two houses shall be in session.

Sec. 15. Bills may originate in either house; but may be altered, amended, or rejected in the other.

Sec. 16. Every bill shall be fully and distinctly read three different days, unless in case of urgency three-fourths of the house in which it shall be pending, shall dispense with this rule. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived, or amended, unless the new act contain the entire act revived, or the section or sections amended, and the section, or sections, so amended, shall be repealed.

Every bill passed by both houses of the General Assembly shall, before said bill can become law, be presented to the governor. If he

approves he shall sign said bill and thereupon said bill shall be law. If he object he shall not sign and shall return said bill, together with his objection thereto in writing, to the house wherein said bill originated, which house shall enter at large upon its journal said objection and shall proceed to reconsider said bill. If, after said reconsideration, at least two-thirds of the members-elect of that house vote to repass said bill it shall be sent, together with said objection, to the other house, which shall enter at large upon its journal said objection and shall proceed to reconsider said bill. If, after said reconsideration, at least two-thirds of the members-elect of that house vote to pass said bill it shall be law, otherwise it shall not be law. The votes for the repassage of said bill shall in each house respectively be no less than those given on the original passage. If any bill passed by both houses of the General Assembly and presented to the governor is not signed and is not returned to the house wherein it originated and within ten days after being so presented, exclusive of Sunday and the day said bill was presented, said bill shall be law as in like manner as if signed, unless final adjournment of the General Assembly prevents such return, in which case shall be law, unless objected to by the Governor and filed, together with his objection thereto in writing, by him in the office of the Secretary of State within the prescribed ten days; and the Secretary of State shall at once make public said fact and shall return said bill, together with said objection, upon the opening of the next following session of the General Assembly, to the house wherein said bill originated, where it shall be treated in like manner as if returned within the prescribed ten days.

If any bill passed by both houses of the General Assembly and presented to the Governor contains two or more sections, or two or more items of appropriation of money, he may object to one or more of said sections or to one or more of said items of appropriation of money, and approve the other portion of said bill, in which case said approved portion may be signed and then shall be law; and such section or sections, item or items of appropriation of money objected to shall be returned within the time and in the manner prescribed for, and shall be separately reconsidered as in the case of, a whole bill; but if final adjournment of the General Assembly prevents such return the Governor shall file said section or sections, item or items of appropriation of money, together with his objection thereto in writing, with the Secretary of State as in the case of a whole bill, and the Secretary of State shall then make public said fact but shall not further act as in the case of a whole bill. [As amended November, 1903. See Appendix.]

Sec. 17. The presiding officer of each house shall sign, publicly in the presence of the house over which he presides, while the same is in session, and capable of transacting business all bills and joint resolutions passed by the General Assembly.

Sec. 18. The style of the laws of this state shall be, "*Be it enacted by the General Assembly of the State of Ohio.*"

Sec. 19. No Senator or Representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this state, which shall be created or the emoluments of which shall have been increased, during the term for which he shall have been elected.

Sec. 20. The General Assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished.

Sec. 21. The General Assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted.

Sec. 22. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.

Sec. 23. The House of Representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the Senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators.

Sec. 24. The governor, judges, and all state officers, may be impeached for any misdemeanor in office; but judgment shall not extend further than the removal from office, and disqualification to hold any office, under the authority of this state. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment, according to law.

Sec. 25. All regular sessions of the General Assembly shall commence on the first Monday of January, biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two.

Sec. 26. All laws, of a general nature, shall have a uniform operation throughout the state; nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the General Assembly, except, as otherwise provided in this constitution.

Sec. 27. The election and appointment of all officers, and the filling of all vacancies, not otherwise provided for by this constitution, or the constitution of the United States, shall be made in such manner as may be directed by law; but no appointing power shall be exercised by the General Assembly, except as prescribed in this constitution, and in the election of the United States senators; and in these cases the vote shall be taken "*viva voce*."

Sec. 28. The General Assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this state.

Sec. 29. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid, on any claim, the subject matter of which shall not have been provided for by pre-existing law, unless such compensation, or claim, be allowed by two-thirds of the members elected to each branch of the General Assembly.

Sec. 30. No new county shall contain less than four hundred square miles of territory, nor shall any county be reduced below that amount; and all laws creating new counties, changing county lines, or remov-

ing county seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting at such election, in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants, may be divided, whenever a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose; but no town or city within the same shall be divided, nor shall either of the divisions contain less than twenty thousand inhabitants.

SEC. 31. The members and officers of the General Assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of postage or otherwise; and no change in their compensation shall take effect during their term of office.

SEC. 32. The General Assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred.

ARTICLE III

EXECUTIVE

SECTION 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, and an attorney-general, who shall be elected on the *first Tuesday after the first Monday in November*, by the electors of the state, and at the places of voting for members of the General Assembly. [As amended October 13, 1885. See Appendix.]

SEC. 2. The governor, lieutenant governor, secretary of state, treasurer, and attorney-general shall hold their offices for two years; and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

SEC. 3. The returns for every election for the officers named in the foregoing election shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each house of the General Assembly. The person having the highest number of votes shall be declared duly elected; but if any two or more shall be highest, and equal in votes, for the same office, one of them shall be chosen by the joint vote of both houses.

SEC. 4. Should there be no session of the General Assembly in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened, and the result declared by the governor, in such manner as may be provided by law.

SEC. 5. The supreme executive power of this state shall be vested in the governor.

SEC. 6. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices; and shall see that the laws are faithfully executed.

Sec. 7. He shall communicate at every session, by message, to the General Assembly, the condition of the state, and recommend such measures as he shall deem expedient.

Sec. 8. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened.

Sec. 9. In case of a disagreement between the two houses, in respect to the time of adjournment, he shall have power to adjourn the General Assembly to such time as he may think proper, but not beyond the regular meetings thereof.

Sec. 10. He shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States.

Sec. 11. He shall have power, after conviction, to grant reprieves, commutations, and pardons, for all crimes and offenses, except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations, as to the manner of applying pardons, as may be prescribed by law. Upon conviction for treason, he may suspend the execution of the sentence, and report the case to the General Assembly, at its next meeting, when the General Assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the General Assembly, at every regular session each case of reprieve, commutation, or pardon granted, stating the name and crime of convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reason therefor.

Sec. 12. There shall be a seal of the state, which shall be kept by the governor, and used by him officially; and shall be called "The Great Seal of the State of Ohio."

Sec. 13. All grants and commissions shall be issued in the name, and by the authority, of the state of Ohio; sealed with the great seal; signed by the governor, and countersigned by the secretary of state.

Sec. 14. No member of Congress, or other person holding office under the authority of this state, or of the United States, shall execute the office of governor, except as herein provided.

Sec. 15. In case of the death, impeachment, resignation, removal, or other disability of the governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

Sec. 16. The lieutenant governor shall be president of the senate, but shall vote only when the senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

Sec. 17. If the lieutenant governor, while executing the office of governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

Sec. 18. Should the office of auditor, treasurer, secretary, or attorney-general, become vacant, for any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until

the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 19. The officers mentioned in this article shall, at stated times, receive for their services, a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 20. The officers of the executive department, and of the public state institutions shall, at least five days preceding each regular session of the General Assembly, severally report to the governor, who shall transmit such reports with his message, to the General Assembly.

ARTICLE IV

JUDICIAL

SECTION 1. The judicial power of the state is vested in a supreme court, circuit courts, courts of common pleas, courts of probate, justices of the peace, and such other courts inferior to the supreme court, as the General Assembly may from time to time establish. [As amended October 9, 1883. See Appendix.]

SEC. 2. The supreme court shall, until otherwise provided by law, consist of five judges, a majority of whom competent to sit shall be necessary to form a quorum or to pronounce a decision, except as hereinafter provided. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus and procedendo, and such appellate jurisdiction as may be provided by law. It shall hold at least one term in each year at the seat of government, and such other terms, there or elsewhere, as may be provided by law. The judges of the supreme court shall be elected by the electors of the state at large, for such term, not less than five years, as the General Assembly may prescribe, and they shall be elected and their official term shall begin at such time as may be fixed by law. In case the General Assembly shall increase the number of such judges, the first term of each of such additional judges shall be such, that in each year after their first election, an equal number of judges of the supreme court shall be elected, except in elections to fill vacancies; and whenever the number of such judges shall be increased, the General Assembly may authorize such court to organize divisions thereof, not exceeding three, each division to consist of an equal number of judges; for the adjudication of cases, a majority of each division shall constitute a quorum, and such an assignment of the cases to each division may be made as such court may deem expedient, but whenever all the judges of either division hearing a case shall not concur as to the judgment to be rendered therein, or whenever a case shall involve the constitutionality of an act of the General Assembly or of an act of congress, it shall be reserved to the whole court for adjudication. The judges of the supreme court in office when this amendment takes effect, shall continue to hold their offices until their successors are elected and qualified. [As amended October 9, 1883. See Appendix.]

SEC. 3. The state shall be divided into nine common pleas districts, of which the county of Hamilton shall constitute one, of compact territory, and bounded by county lines; and each of said districts, con-

sisting of three or more counties, shall be subdivided into three parts, of compact territory, bounded by county lines, and as nearly equal in population as practicable; in each of which, one judge of the court of common pleas for said district, and residing therein, shall be elected by the electors of said subdivision. Courts of common pleas shall be held, by one or more of these judges, in every county in the district, as often as may be provided by law; and more than one court, or sitting thereof, may be held at the same time in each district.

Sec. 4. The jurisdiction of the courts of common pleas, and of the judges thereof, shall be fixed by law.

Sec. 5. [Repealed October 9, 1883.]

Sec. 6. The circuit court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law. Such courts shall be composed of such number of judges as may be provided by law, and shall be held in each county, at least once in each year. The number of circuits, and the boundaries thereof, shall be prescribed by law. Such judges shall be elected in each circuit by the electors thereof, and at such time and for such term as may be prescribed by law, and the same number shall be elected in each circuit. Each judge shall be competent to exercise his judicial powers in any circuit. The General Assembly may change, from time to time, the number or boundaries of the circuits. The circuit courts shall be the successors of the district courts, and all cases, judgments, records, and proceedings pending in said district courts, in the several counties of any district, shall be transferred to the circuit courts in the several counties, and be proceeded in as though said district courts had not been abolished, and the district courts shall continue in existence until the election and qualification of the judges of the circuit court. [As amended October 9, 1883. See Appendix.]

Sec. 7. There shall be established in each county, a probate court, which shall be a court of record, open at all times, and holden by one judge, elected by the voters of the county, who shall hold his office for the term of three years, and shall receive such compensation, payable out of the county treasury, or by fees, or both, as shall be provided by law.

Sec. 8. The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators, and guardians, and such jurisdiction in habeas corpus, the issuing of marriage licenses, and for the sale of land by executors, administrators, and guardians, and such other jurisdiction, in any county or counties, as may be provided by law.

Sec. 9. A competent number of justices of the peace shall be elected, by the electors, in each township in the several counties. Their term of office shall be three years, and their powers and duties shall be regulated by law.

Sec. 10. All judges, other than those provided for in this constitution, shall be elected, by the electors of the judicial district for which they may be created, but not for a longer term of office than five years.

Sec. 11. [Repealed October 9, 1883. See Appendix.]

Sec. 12. The judges of the courts of common pleas shall, while in office, reside in the district for which they are elected; and their term of office shall be for five years.

SEC. 13. In case the office of any judge shall become vacant, before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified; and such successor shall be elected for the unexpired term, at the first annual election that occurs more than thirty days after the vacancy shall have happened.

SEC. 14. The judges of the supreme court, and of the court of common pleas, shall, at stated times, receive, for their services, such compensation as may be provided by law, which shall not be diminished, or increased, during their term of office; but they shall receive no fees or perquisites, nor hold ony other office of profit or trust, under the authority of this state, or the United States. All votes for either of them, for any elective office, except a judicial office, under the authority of this state, given by the General Assembly, or the people, shall be void.

SEC. 15. The General Assembly may increase, or diminish, the number of the judges of the supreme court, the number of the districts of the court of common pleas, the number of judges in any district, change the districts, or the subdivisions thereof, or establish other courts, whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition, or diminution, shall vacate the office of any judge.

SEC. 16. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be clerk of all other courts of record held therein; but, the General Assembly may provide, by law, for the election of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the judge of the probate court to perform the duties of clerk for his court, under such regulations as may be directed by law. Clerks of courts shall be removable for such cause and in such manner as shall be prescribed by law.

SEC. 17. Judges may be removed from office, by concurrent resolutions of both houses of the General Assembly, if two-thirds of the members, elected to each house, concur therein; but, no such removal shall be made, except upon complaint, the substance of which shall be entered on the journal, nor, until the party charged shall have had notice thereof, and an opportunity to be heard.

SEC. 18. The several judges of the supreme court, of the common pleas, and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers, or otherwise, as may be directed by law.

SEC. 19. The General Assembly may establish courts of conciliation, and prescribe their powers and duties; but such courts shall not render final judgment in any case, except upon submission, by the parties, of the matter in dispute, and their agreement to abide such judgment.

SEC. 20. The style of all process shall be, "The State of Ohio;" all prosecutions shall be carried on, in the name, and by the authority, of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the State of Ohio."

SEC. 22. (21) A commission, which shall consist of five members, shall be appointed by the governor, with the advice and consent of the Senate, the members of which shall hold office for the term of three

years from and after the first day of February, 1876, to dispose of such part of the business then on the dockets of the supreme court, as shall, by arrangement between said commission and said court, be transferred to such commission; and said commission shall have like jurisdiction and power in respect to such business as are or may be vested in said court; and the members of said commission shall receive a like compensation for the time being with the judges of said court. A majority of the members of said commission shall be necessary to form a quorum or pronounce a decision, and its decision shall be certified, entered, and enforced as the judgments of the supreme court, and at the expiration of the term of said commission, all business undisposed of, shall by it be certified to the supreme court and disposed of as if said commission had never existed. The clerk and reporter of said court shall be the clerk and reporter of said commission, and the commission shall have such other attendants not exceeding in number those provided by law for said court, which attendants said commission may appoint and remove at its pleasure. Any vacancy occurring in said commission, shall be filled by appointment of the governor, with the advice and consent of the senate, if the senate be in session, and if the senate be not in session, by the governor, but in such last case, such appointment shall expire at the end of the next session of the General Assembly. The General Assembly may, on application of the supreme court duly entered on the journal of the court and certified, provide by law, whenever two-thirds of such [each] house shall concur therein, from time to time, for the appointment, in like manner, of a like commission with like powers, jurisdiction and duties; provided, that the term of any such commission shall not exceed two years, nor shall it be created oftener than once in ten years. [Amended October 12, 1875. See Appendix.]

Article V

ELECTIVE FRANCHISE

Section 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

Sec. 2. All elections shall be by ballot.

Sec. 3. Electors, during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest, in all cases, except treason, felony, and breach of the peace.

Sec. 4. The General Assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or other infamous crime.

Sec. 5. No person in the military, naval, or marine service of the United States, shall, by being stationed in any garrison, or military, or naval station, within the state, be considered a resident of this state.

Sec. 6. No idiot, or insane person, shall be entitled to the privileges of an elector.

Article VI

EDUCATION

Section 1. The principal of all funds, arising from the sale, or other disposition of lands, or other property, granted or entrusted to this state for educational or religious purposes, shall forever be preserved inviolate, and undiminished; and, the income arising therefrom, shall be faithfully applied to the specific objects of the original grants, or appropriations.

Sec. 2. The General Assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.

Article VII

PUBLIC INSTITUTIONS

Section 1. Institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the state; and be subject to such regulations as may be prescribed by the General Assembly.

Sec. 2. The directors of the penitentiary shall be appointed or elected in such manner as the General Assembly may direct; and the trustees of the benevolent, and other state institutions, now elected by the General Assembly, and of such other state institutions, as may be hereafter created, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journals of the senate.

Sec. 3. The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the General Assembly, and, until a successor to his appointee shall be confirmed and qualified.

Article VIII

PUBLIC DEBT AND PUBLIC WORKS

Section 1. The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct or contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money, arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Sec. 2. In addition to the above limited power, the state may contract debts to repel invasion, suppress insurrection, defend the state in war, or to redeem the present outstanding indebtedness of the state; but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay

such debts, and to no other purpose whatever; and all debts, incurred to redeem the present outstanding indebtedness of the state, shall be so contracted as to be payable by the sinking fund, hereinafter provided for, as the same shall accumulate.

Sec. 3. Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by or on behalf of the state.

Sec. 4. The credit of the state shall not, in any manner be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner, or stockholder, in any company or association in this state, or elsewhere, formed for any purpose whatever.

Sec. 5. The state shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the state in war.

Sec. 6. The General Assembly shall never authorize any county, city, town, or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or loan its credit to, or in aid of, any such company, corporation, or association.

Sec. 7. The faith of the state being pledged for the payment of its public debt, in order to provide therefor, there shall be created a sinking fund, which shall be sufficient to pay the accruing interest on such debt, and, annually, to reduce the principal thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of six percent per annum. The said sinking fund shall consist, of the net annual income of the public works and stocks owned by the state, of any other funds or resources that are, or may be, provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid.

Sec. 8. The auditor of state, secretary of state, and attorney-general, are hereby created a board of commissioners, to be styled, "The Commissioners of the Sinking Fund."

Sec. 9. The commissioners of the sinking fund shall, immediately preceding each regular session of the General Assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the governor, who shall transmit the same with his regular message, to the General Assembly; and the General Assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

Sec. 10. It shall be the duty of the said commissioners faithfully to apply said fund, together with all moneys that may be, by the General Assembly, appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the state, excepting only, the school and trust funds held by the state.

Sec. 11. The said commissioners shall, semi-annually, make a full and detailed report of their proceedings to the governor, who shall immediately, cause the same to be published, and shall also communi-

cate the same to the General Assembly, forthwith, if it be in session, and if not, then at its first session after such report shall be made.

Sec. 12. So long as this state shall have public works which require superintendence, there shall be a board of public works, to consist of three members, who shall be elected by the people, at the first general election after the adoption of this constitution, one for the term of one year, one for the term of two years, and one for the term of three years; and one member of said board shall be elected annually thereafter, who shall hold his office for three years.

Sec. 13. The powers and duties of said board of public works, and its several members, and their compensation, shall be such as are now, or may be, prescribed by law.

Article IX

MILITIA

Section 1. All white male citizens, residents of this state, being eighteen years of age, and under the age of forty-five years, shall be enrolled in the militia, and perform military duty, in such manner, not incompatible with the constitution and laws of the United States, as may be prescribed by law.

Sec. 2. Majors general, brigadiers general, colonels, lieutenant colonels, majors, captains, and subalterns, shall be elected by the persons subject to military duty, in their respective districts.

Sec. 3. The governor shall appoint the adjutant-general, quartermaster-general, and such other staff officers, as may be provided for by law. Majors general, brigadiers general, colonels, or commandants of regiments, battalions, or squadrons, shall, severally, appoint their staff, and captains shall appoint their noncommissioned officers and musicians.

Sec. 4. The governor shall commission all officers of the line and staff, ranking as such; and shall have power to call forth the militia, to execute the laws of the state, to suppress insurrection, and repel invasion.

Sec. 5. The General Assembly shall provide, by law, for the protection and safe-keeping of the public arms.

Article X

COUNTY AND TOWNSHIP ORGANIZATIONS

Section 1. The General Assembly shall provide, by law, for the election of such county and township officers as may be necessary.

Sec. 2. County officers shall be elected on the first Tuesday after the first Monday in November, by the electors of each county in such manner, and for such term, not exceeding three years, as may be provided by law. [Amended October 13, 1885. See Appendix.]

Sec. 3. No person shall be eligible to the office of sheriff, or county treasurer, for more than four years, in any period of six years.

Sec. 4. Township officers shall be elected by the electors of each township, at such time, in such manner, and for such term, not exceeding three years, as may be provided by law; but shall hold their offices until their successors are elected and qualified. [As amended October 13, 1885. See Appendix.]

Sec. 5. No money shall be drawn from any county or township treasury, except by authority of law.

Sec. 6. Justices of the peace, and county and township officers, may be removed, in such manner and for such cause, as shall be prescribed by law.

Sec. 7. The commissioners of counties, the trustees of townships, and similar boards, shall have such power of local taxation, for police purposes, as may be prescribed by law.

Article XI

APPORTIONMENT

Section 1. The apportionment of this state for members of the General Assembly shall be made every ten years, after the year one thousand eight hundred and fifty-one, in the following manner: The whole population of the state, as ascertained by the federal census, or in such other mode as the General Assembly may direct, shall be divided by the number "one hundred," and the quotient shall be the ratio of representation in the house of representatives, for ten years next succeeding such apportionment.

Sec. 2. Every county having a population equal to one-half of said ratio, shall be entitled to one representative; every county, containing said ratio, and three-fourths over, shall be entitled to two representatives; every county, containing three times said ratio, shall be entitled to three representatives; and so on, requiring after the first two, an entire ratio for each additional representative. Provided, however, that each county shall have one representative. [As amended November, 1903.]

Sec. 3. When any county shall have a fraction above the ratio, so large, that being multiplied by five, the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratios, among the several sessions of the decennial period, in the following manner: If there be only one ratio, a representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a representative shall be allotted to the fourth and third sessions, respectively; if three, to the third, second, and first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively.

Sec. 4. Any county, forming with another county or counties, a representative district, during one decennial period, if it have acquired sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it shall have been separated, a population sufficient for a representative; but no such change shall be made, except at the regular decennial period for the apportionment of representatives.

Sec. 5. If, in fixing any subsequent ratio, a county, previously entitled to a separate representation, shall have less than the number required by the new ratio for a representative, such county shall be attached to the county adjoining it, having the least number of inhabitants; and the representation of the district, so formed, shall be determined as herein provided.

Sec. 6. The ratio for a senator shall forever, hereafter, be ascertained by dividing the whole population of the state by the number thirty-five.

Sec. 7. The state is hereby divided into thirty-three senatorial districts, as follows: The county of Hamilton shall constitute the first senatorial district; the counties of Butler and Warren, the second; Montgomery and Preble, the third; Clermont and Brown, the fourth; Greene, Clinton and Fayette, the fifth; Ross and Highland, the sixth; Adams, Pike, Scioto and Jackson the seventh; Lawrence, Gallia, Meigs, and Vinton, the eighth; Athens, Hocking, and Fairfield, the ninth; Franklin and Pickaway, the tenth; Clark, Champaign, and Madison, the eleventh; Miami, Darke, and Shelby, the twelfth; Logan, Union, Marion, and Hardin, the thirteenth; Washington and Morgan, the fourteenth; Muskingum and Perry, the fifteenth; Delaware and Licking, the sixteenth; Knox and Morrow, the seventeenth; Coshocton and Tuscarawas, the eighteenth; Guernsey and Monroe, the nineteenth; Belmont and Harrison, the twentieth; Carroll and Stark, the twenty-first; Jefferson and Columbiana, the twenty-second; Trumbull and Mahoning, the twenty-third; Ashtabula, Lake, and Geauga, the twenty-fourth; Cuyahoga, the twenty-fifth; Portage and Summit, the twenty-sixth; Medina and Lorain, the twenty-seventh; Wayne and Holmes, the twenty-eighth; Ashland and Richland, the twenty-ninth; Huron, Erie, Sandusky, and Ottawa, the thirtieth; Seneca, Crawford, and Wyandot, the thirty-first; Mercer, Auglaize, Allen, Van Wert, Paulding, Defiance, and Williams, the thirty-second; and Hancock, Wood, Lucas, Fulton, Henry, and Putnam, the thirty-third: For the first decennial period, after the adoption of this constitution, each of said districts shall be entitled to one senator, except the first district, which shall be entitled to three senators.

Sec. 8. The same rule shall be applied, in apportioning the fractions of senatorial districts, and in annexing districts, which may hereafter have less than three-fourths of a senatorial ratio, as are applied to representative districts.

Sec. 9. Any county forming part of a senatorial district, having acquired a population equal to a full senatorial ratio, shall be made a separate senatorial district, at any regular decennial apportionment, if a full senatorial ratio shall be left in the district from which it shall be taken.

Sec. 10. For the first ten years, after the year one thousand eight hundred and fifty-one, the apportionment of representatives shall be as provided in the schedule, and no change shall ever be made in the principles of representation, as herein established, or, in the senatorial districts, except as above provided. All territory, belonging to a county at the time of any apportionment, shall, as to the right of representation and suffrage, remain an intergral part thereof, during the decennial period.

Sec. 11. The governor, auditor, and secretary of state, or any two of them, shall, at least six months prior to the October election, in the year one thousand eight hundred and sixty-one, and, at each decennial period thereafter, ascertain and determine the ratio of representation, according to the decennial census, the number of representatives and senators each county or district shall be entitled to elect, and for what years, within the next ensuing ten years, and the governor shall cause the same to be published, in such manner as shall be directed by law.

JUDICIAL APPORTIONMENT

SEC. 12. For judicial purposes, the state shall be apportioned as follows:

The county of Hamilton, shall constitute the first district, which shall not be subdivided; and the judges therein, may hold separate courts or separate sittings of the same court, at the same time.

The counties of Butler, Preble, and Darke, shall constitute the first subdivision; Montgomery, Miami, and Champaign, the second; and Warren, Clinton, Greene, and Clark, the third subdivision, of the second district; and, together, shall form such district.

The counties of Shelby, Auglaize, Allen, Hardin, Logan, Union, and Marion, shall constitute the first subdivision; Mercer, Van Wert, Putnam, Paulding, Defiance, Williams, Henry, and Fulton, the second; and Wood, Seneca, Hancock, Wyandot, and Crawford, the third subdivision, of the third district; and together, shall form such district.

The counties of Lucas, Ottawa, Sandusky, Erie, and Huron, shall constitute the first subdivision; Lorain, Medina, and Summit, the second; and the county of Cuyahoga, the third subdivision, of the fourth district; and, together, shall form such district.

The counties of Clermont, Brown, and Adams, shall constitute the first subdivision; Highland, Ross, and Fayette, the second; and Pickaway, Franklin, and Madison, the third subdivision, of the fifth district; and, together, shall form such district.

The counties of Licking, Knox, and Delaware, shall constitute the first subdivision; Morrow, Richland, and Ashland, the second; and Wayne, Holmes, and Coshocton, the third subdivision, of the sixth district; and, together, shall form such district.

The counties of Fairfield, Perry, and Hocking, shall constitute the first subdivision; Jackson, Vinton, Pike, Scioto, and Lawrence, the second; and Gallia, Meigs, Athens, and Washington, the third subdivision, of the seventh district; and, together, shall form such district.

The Counties of Muskingum and Morgan, shall constitute the first subdivision; Guernsey, Belmont, and Monroe, the second; and Jefferson, Harrison, and Tuscarawas, the third subdivision, of the eighth district; and, together, shall form such district.

The counties of Stark, Carroll, and Columbiana, shall constitute the first subdivision; Trumbull, Portage, and Mahoning, the second; and Geauga, Lake, and Ashtabula, the third subdivision, of the ninth district; and, together, shall form such district.

SEC. 13. The General Assembly shall attach any new counties, that may hereafter be erected, to such districts, or subdivisions thereof, as shall be most convenient.

ARTICLE XII

FINANCE AND TAXATION

SECTION 1. The levying of taxes, by the poll, is grievous and oppressive; therefore, the General Assembly shall never levy a poll tax, for county or state purposes.

SEC. 2. Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or other-

wise; and also all real and personal property according to its true value in money, excepting bonds of the state of Ohio, bonds of any city, village, hamlet, county, or township in this state, and bonds issued in behalf of the public schools of Ohio and the means of instruction in connection therewith, which bonds shall be exempt from taxation; but burying grounds, public schoolhouses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property, to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal; and the value of all property, so exempted, shall, from time to time, be ascertained and published as may be directed by law. [As amended November, 1905.]

SEC. 3. The General Assembly shall provide, by law, for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues, of every description, (without deduction), of all banks, now existing, or hereafter created, and of all bankers, so that all property employed in banking, shall always bear a burden of taxation, equal to that imposed on the property of individuals.

SEC. 4. The General Assembly shall provide for raising revenue, sufficient to defray the expenses of the state, for each year, and also a sufficient sum to pay the interest on the state debt.

SEC. 5. No tax shall be levied, except in pursuance of law; and every law imposing a tax, shall state, distinctly, the object of the same, to which only, it shall be applied.

SEC. 6. The state shall never contract any debt for purposes of internal improvement.

ARTICLE XIII

CORPORATIONS

SECTION 1. The General Assembly shall pass no special act conferring corporate powers.

SEC. 2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed.

SEC. 3. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her. [As amended November, 1903.]

SEC. 4. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

SEC. 5. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation; which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law.

SEC. 6. The General Assembly shall provide for the organization of cities, and incorporated villages, by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power.

Sec. 7. No act of the General Assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors, voting at such election.

Article XIV

JURISPRUDENCE

Section 1. The General Assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, and prescribe their tenure of office, compensation, and the mode of filling vacancies in said commission.

Sec. 2. The said commissioners shall revise, reform, simplify, and abridge the practice, pleadings, forms, and proceedings of the courts of record of this state; and, as far as practicable and expedient, shall provide for the abolition of the distinct forms of action at law, now in use, and for the administration of justice by a uniform mode of proceeding, without reference to any distinction between law and equity.

Sec. 3. The proceedings of the commissioners shall, from time to time, be reported to the General Assembly, and be subject to the action of that body.

Article XV

MISCELLANEOUS

Section 1. Columbus shall be the seat of government, until otherwise directed by law.

Sec. 2. The printing of the laws, journals, bills, legislative documents and papers for each branch of the General Assembly, with the printing required for the executive and other departments of state, shall be let, on contract, to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

Sec. 3. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as shall be prescribed by law.

Sec. 4. No person shall be elected or appointed to any office in this state, unless he possesses the qualification of an elector.

Sec. 5. No person who shall hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry, a challenge therefor, shall hold any office in this state.

Sec. 6. Lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this state.

Sec. 7. Every person chosen or appointed to any office under this state, before entering upon the discharge of its duties, shall take an oath or affirmation, to support the Constitution of the United States, and of this state, and also an oath of office.

Sec. 8. There may be established, in the secretary of state's office, a bureau of statistics, under such regulations as may be prescribed by law.

Sec. 9. No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the General Assembly may, by law, provide against evils resulting therefrom.

Article XVI

AMENDMENTS

Section 1. Either branch of the General Assembly may propose amendments to this constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be published in at least one newspaper in each county of the state, where a newspaper is published, for six months preceding the next election for senators and representatives, at which time the same shall be submitted to the electors, for their approval or rejection; and if a majority of the electors, voting at such election, shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment, separately.

Sec. 2. Whenever two-thirds of the members elected to each branch of the General Assembly, shall think it necessary to call a convention, to revise, amend, or change this constitution, they shall recommend to the electors to vote, at the next election for members to the General assembly, for or against a convention; and if a majority of all the electors, voting at said election, shall have voted for a convention, the General Assembly shall, at their next session, provide, by law, for calling the same. The convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose, aforesaid.

Sec. 3. At the general election, to be held in the year one thousand eight hundred and seventy-one, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the constitution," shall be submitted to the electors of the state; and, in case a majority of all the electors, voting at such election, shall decide in favor of a convention, the General Assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state, and adopted by a majority of those voting thereon.

SCHEDULE

Section 1. All laws of this state, in force on the first day of September, one thousand eight hundred and fifty-one, not inconsistent with this constitution, shall continue in force, until amended, or repealed.

Sec. 2. The first election for members of the General Assembly, under this constitution, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one.

Sec. 3. The first election for governor, lieutenant-governor, auditor, treasurer, and secretary of state and attorney-general, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one. The persons, holding said offices on the first day of

September, one thousand eight hundred and fifty-one, shall continue therein, until the second Monday of January, one thousand eight hundred and fifty-two.

Sec. 4. The first election for judges of the supreme court, courts of common pleas, and probate courts, and clerks of the courts of common pleas, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one, and the official term of said judges and clerks, so elected, shall commence on the second Monday of February, one thousand eight hundred and fifty-two. Judges and clerks of the courts of common pleas and supreme court, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office with their present powers and duties, until the second Monday of February, one thousand eight hundred and fifty-two. No suit or proceeding, pending in any of the courts of this state, shall be affected by the adoption of this constitution.

Sec. 5. The register and receiver of the land office, directors of the penitentiary, directors of the benevolent institutions of the state, the state librarian, and all other officers, not otherwise provided for in this constitution, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office, until their terms expire, respectively, unless the General Assembly shall otherwise provide.

Sec. 6. The superior and commercial courts of Cincinnati, and the superior court of Cleveland, shall remain, until otherwise provided by law, with their present powers and jurisdiction; and the judges and clerks of said courts, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office, until the expiration of their terms of office, respectively, or, until otherwise provided by law; but neither of said courts shall continue after the second Monday of February, one thousand eight hundred and fifty-three; and no suits shall be commenced in said two first mentioned courts, after the second Monday in February, one thousand eight hundred and fifty-two, nor in said last mentioned court, after the second Monday in August, one thousand eight hundred and fifty-two; and all business in either of said courts, not disposed of within the time limited for their continuance as aforesaid, shall be transferred to the court of common pleas.

Sec. 7. All county and township officers and justices of the peace, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until their terms expire, respectively.

Sec. 8. Vacancies in office, occurring after the first day of September, one thousand eight hundred and fifty-one, shall be filled, as is now prescribed by law, and until officers are elected or appointed, and qualified, under this constitution.

Sec. 9. This constitution shall take effect, on the first day of September, one thousand eight hundred and fifty-one.

Sec. 10. All officers shall continue in office, until their successors shall be chosen and qualified.

Sec. 11. Suits pending in the supreme court in bank, shall be transferred to the supreme court provided for in this constitution, and be proceeded in according to law.

Sec. 12. The district courts shall, in their respective counties, be the successors of the present supreme court; and all suits, prosecutions,

judgments, records, and proceedings, pending and remaining in said supreme court, in the several counties of any district, shall be transferred to the respective district courts of such counties, and be proceeded in, as though no change had been made in said supreme court.

SEC. 13. The said courts of common pleas, shall be the successors of the present courts of common pleas in the several counties, except as to probate jurisdiction; and all suits, prosecutions, proceedings, records and judgments, pending or being in said last mentioned courts, except as aforesaid, shall be transferred to the courts of common pleas created by this constitution, and proceeded in, as though the same had been therein instituted.

SEC. 14. The probate courts provided for in this constitution, as to all matters within the jurisdiction conferred upon said courts, shall be the successors, in the several counties, of the present courts of common pleas; and the records, files and papers, business and proceedings, appertaining to said jurisdiction, shall be transferred to said courts of probate, and be there proceeded in, according to law.

SEC. 15. Until otherwise provided by law, elections for judges and clerks shall be held, and the poll-books returned, as is provided for governor, and the abstract therefrom, certified to the secretary of state, shall be by him opened, in the presence of the governor, who shall declare the result, and issue commissions to the persons elected.

SEC. 16. Where two or more counties are joined in a senatorial representative, or judicial district, the returns of elections shall be sent to the county, having the largest population.

SEC. 17. The foregoing constitution shall be submitted to the electors of the state, at an election to be held on the third Tuesday of June, one thousand eight hundred and fifty-one, in the several election districts of this state. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New constitution, Yes;" those against the constitution, "New constitution, No." The polls at said election shall be opened between the hours of eight and ten o'clock A. M., and closed at six o'clock P. M.; and the said election shall be conducted, and the returns thereof made and certified, to the secretary of state, as provided by law for annual elections of state and county officers. Within twenty days after such election, the secretary of state shall open the returns thereof, in the presence of the governor; and, if it shall appear that a majority of all the votes, cast at such election, are in favor of the constitution, the governor shall issue his proclamation, stating that fact, and said constitution shall be the constitution of the state of Ohio, and not otherwise.

SEC. 18. At the time when the votes of the electors shall be taken for the adoption or rejection of this constitution, the additional section, in the words following, to-wit: "No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the General Assembly may, by law, provide against evils resulting therefrom," shall be separately submitted to the electors for adoption or rejection, in form following, to-wit: A separate ballot may be given by every elector and deposited in a separate box. Upon the ballots given for said separate amendment shall be written or printed, or partly written and partly printed, the words: "License to sell intoxicating liquors, Yes;" and upon the ballots given against such amendment, in like manner, the words: "License to sell intoxicating liquors,

No." If, at the said election, a majority of all the votes given for and against said amendment, shall contain the words: "License to sell intoxicating liquors, No," then the said amendment shall be a separate section of article fifteen of the constitution.

SEC. 19. The apportionment of the house of representatives during the first decennial period under this constitution, shall be as follows:

The counties of Adams, Allen, Athens, Auglaize, Carroll, Champaign, Clark, Clinton, Crawford, Darke, Delaware, Erie, Fayette, Gallia, Geauga, Greene, Hancock, Harrison, Hocking, Holmes, Lake, Lawrence, Logan, Madison, Marion, Meigs, Morrow, Perry, Pickaway, Pike, Preble, Sandusky, Scioto, Shelby, and Union, shall, severally, be entitled to one representative, in each session of the decennial period.

The counties of Franklin, Licking, Montgomery, and Stark shall each be entitled to two representatives, in each session of the decennial period.

The counties of Ashland, Coshocton, Highland, Huron, Lorain, Mahoning, Medina, Miami, Portage, Seneca, Summit, and Warren, shall, severally, be entitled to one representative, in each session; and one additional representative in the fifth session of the decennial period.

The counties of Ashtabula, Brown, Butler, Clermont, Fairfield, Guernsey, Jefferson, Knox, Monroe, Morgan, Richland, Trumbull, Tuscarawas, and Washington, shall, severally, be entitled to one representative, in each session; and two additional representatives, one in the third, and one in the fourth session of the decennial period.

The counties of Belmont, Columbiana, Ross and Wayne, shall, severally, be entitled to one representative, in each session; and three additional representatives, one in the first, one in the second, and one in the third session of the decennial period.

The county of Muskingum shall be entitled to two representatives, in each session; and one additional representative, in the fifth session, of the decennial period.

The county of Cuyahoga shall be entitled to two representatives, in each session; and two additional representatives, one in the third, and one in the fourth session of the decennial period.

The county of Hamilton shall be entitled to seven representatives, in each session; and four additional representatives, one in the first, one in the second, one in the third, and one in the fourth session, of the decennial period.

The following counties, until they shall have acquired a sufficient population to entitle them to elect, separately, under the fourth section of the eleventh article, shall form districts in manner following, to-wit: The counties of Jackson and Vinton, one district; the counties of Lucas and Fulton, one district; the counties of Wyandot and Hardin, one district; the counties of Mercer and Van Wert, one district; the counties of Paulding, Defiance, and Williams, one district; the counties of Putnam and Henry, one district; and the counties of Wood and Ottawa, one district; each of which districts shall be entitled to one representative in every session of the decennial period.

Done in convention, at Cincinnati, the tenth day of March, in the year of our Lord, one thousand eight hundred and fifty-one, and of the independence of the United States, the seventy-fifth.

Article XVII

Section 1. Elections for state and county officers shall be held on the first Tuesday after the first Monday in November in the even numbered years; and all elections for all other elective officers shall be held on the first Tuesday after the first Monday in November in the odd numbered years.

Sec. 2. The term of office of the governor, lieutenant governor, attorney-general, secretary of state and treasurer of state shall be two years, and that of the auditor of state shall be four years. The term of office of the judges of the supreme court and circuit courts shall be such even number of years not less than six (6) years as may be prescribed by the general assembly: that of the judges of the common pleas court six (6) years and of the judges of the probate court, four (4) years, and that of other judges shall be such even number of years not exceeding six (6) years as may be prescribed by the general assembly. The term of office of justices of the peace shall be such even number of years not exceeding four (4) years, as may be prescribed by the general assembly. The term of office of the members of the board of public works shall be such even number of years not exceeding six (6) years as may be so prescribed; and the term of office of all elective county, township, municipal and school officers shall be such even number of years not exceeding four (4) years as may be so prescribed.

And the General Assembly shall have power to so extend existing terms of office as to effect the purpose of Section 1 of this article.

Any vacancy which may occur in any elective state office other than that of a member of the General Assembly or of governor, shall be filled by appointment by the governor until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election at the first general election for the office which is vacant, that occurs more than thirty (30) days after the vacancy shall have occurred. The person elected shall fill the office for the unexpired term. All vacancies in other elective offices shall be filled for the unexpired term in such manner as may be prescribed by law.

William Medill, *President.*

Attest:

Wm. H. Gill, *Secretary.*

OKLAHOMA

For organic acts relating to the land now included within Oklahoma see in this work:

Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).
District of Louisiana, 1804 (Louisiana, p. 1364).
Territory of Louisiana, 1805 (Louisiana, p. 1373).
Territory of Missouri, 1812 (Missouri, p. 2139).
Territory of Arkansas, 1819 (Arkansas, p. 261).
Treaty Ceding Florida and Fixing Boundaries, 1819 (Florida, p. 649).
Act for Government of Indian Country, 1834 (Indian Territory, p. 1097).
Organic Acts of Mexico and Texas, 1824–1845 (Texas, pp. 3475–3569).
Act Establishing Territory of New Mexico and Fixing Boundaries of Texas, 1850 (New Mexico, p. 2615).

TERRITORIAL GOVERNMENT OF OKLAHOMA—1890 [a]

[FIFTY-FIRST CONGRESS, FIRST SESSION]

An Act to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States Court in the Indian Territory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. That all that portion of the United States now known as the Indian Territory, except so much of the same as is actually occupied by the five civilized tribes, and the Indian tribes within the Quapaw Indian Agency, and except the unoccupied part of the Cherokee outlet, together with that portion of the United States known as the Public Land Strip, is hereby erected into a temporary government by the name of the Territory of Oklahoma. The portion of the Indian Territory included in said Territory of Oklahoma is bounded by a line drawn as follows: Commencing at a point where the ninety-eighth meridian crosses the Red River, thence by said meridian to the point where it crosses the Canadian River, thence along said river to the west line of the Seminole country, thence along said line to the north fork of the Canadian River, thence down said river to the west line of the Creek country, thence along said line to the northwest corner of the Creek country, thence along the north line of the Creek country, to the ninety-sixth meridian, thence northward by said meridian to the southern boundary line of Kansas, thence west along said line to the Arkansas River, thence down said river to the north line of the land occupied by the Ponca tribe of Indians from which point the line

[a] See also the acts to provide for laying out lots, Act of May 14, 1890; and to provide new justices and new judicial districts, May 2, 1902.

runs so as to include all the lands occupied by the Ponca, Tonkawa, Otoe and Missouria, and the Pawnee tribes of Indians until it strikes the south line of the Cherokee outlet which it follows westward to the east line of the State of Texas, thence by the boundary line of the State of Texas to the point of beginning; the Public Land Strip which is included in said Territory of Oklahoma is bounded east by the one-hundredth meridian, south by Texas, west by New Mexico, north by Colorado and Kansas. Whenever the interest of the Cherokee Indians in the land known as the Cherokee outlet shall have been extinguished and the President shall make proclamation thereof, said outlet shall thereupon and without further legislation, become a part of the Territory of Oklahoma. Any other lands within the Indian Territory not embraced within these boundaries shall hereafter become a part of the Territory of Oklahoma whenever the Indian nation or tribe owning such lands shall signify to the President of the United States in legal manner its assent that such lands shall so become a part of said Territory of Oklahoma, and the President shall thereupon make proclamation to that effect.

Congress may at any time hereafter change the boundaries of said Territory, or attach any portion of the same to any other State or Territory of the United Etates without the consent of the inhabitants of the Territory hereby created: *Provided*, That nothing in this act shall be construed to impair any right now pertaining to any Indians or Indian tribe in said Territory under the laws, agreements, and treaties of the United States, or to impair the rights of person or property pertaining to said Indians, or to affect the authority of the Government of the United States to make any regulation or to make any law respecting said Indians, their lands, property, or other rights which it would have been competent to make or enact if this act had not been passed.

SEC. 2. That the executive power of the Territory of Oklahoma shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory; shall be commander-in-chief of the militia thereof; he may grant pardons for offenses against the laws of said Territory, and reprieves for offenses against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. That there shall be a secretary of said Territory, who shall reside therein and hold his office for four years unless sooner removed by the President of the United States; he shall record and preserve all the laws and the proceedings of the legislative assembly hereinafter constituted, and all acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session thereof, to the President of the United States and to the Secretary of the Interior and, at the same time, two copies of the laws and journals of the legislative assembly to the Speaker of the House of Representatives and the President of the Senate for the use of Congress; and in case of the death, removal, resignation, or other necessary absence of the governor from the Territory, the secretary

shall execute all the powers and perform all the duties of governor during such vacancy or absence, or until another governor is appointed and qualified.

SEC. 4. That the legislative power and authority of said Territory shall be vested in the governor and legislative assembly. The legislative assembly shall consist of a council and a house of representatives. The council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue two years, and the sessions of the legislative assembly shall be biennial and shall be limited to sixty days' duration: *Provided*, *however*, That the duration of the first session of said legislative assembly may continue one hundred and twenty days.

That for the purpose of facilitating the organization of a temporary government in the Territory of Oklahoma, seven counties are hereby established therein, to be known, until after the first election in the Territory, as the First County, the Second County, the Third County, the Fourth County, the Fifth County, and the Sixth County, the boundaries of which shall be fixed by the governor of the Territory until otherwise provided by the legislative assembly thereof. The county seat of the First County shall be at Guthrie. The county seat of the Second County shall be at Oklahoma City. The county seat of the Third County shall be at Norman. The county seat of the Fourth County shall be at El Reno. The county seat of the Fifth County shall be at Kingfisher City. The county seat of the Sixth County shall be at Stillwater. The Seventh County shall embrace all that portion of the Territory lying west of the one hundredth meridian, known as the Public Land Strip, the county seat of which shall be at Beaver: *Provided*, That the county seats located by this act may be changed in such manner as the Territorial legislature may provide.

At the first election for members of the legislative assembly the people of each county may vote for a name for such county, and the name which receives the greatest number of votes shall be the name of such county. If two or more counties should select the same name, the county which casts the greatest number of votes for such name shall be entitled to the same, and the names receiving the next highest number of votes in the other counties shall be the names of such counties. An apportionment shall be made by the governor as nearly equal as practicable among the several counties or districts for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population (excepting Indians not taxed) as nearly as may be, and the members of the council and house of representatives shall reside in and be inhabitants of the district for which they may be elected, respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants of the several counties or districts of the Territory to be taken, unless the same shall have been taken and published by the United States, in which case such census and enumeration shall be adopted, and the first election shall be held at such times and places and be conducted in such manner, both as to the persons who superintend such election and the returns

thereof, as the governor shall appoint and direct, and he shall at the same time declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled, as shown by the census herein provided for. The number of persons authorized to be elected, having the highest number of legal votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council, and the person or persons authorized to be elected, having the greatest number of votes for the house of representatives equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case two or more persons voted for have an equal number of votes, and in case a vacancy otherwise occurs in either branch of the legislative assembly, the governor shall order a new election, and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint, but after such first election, however, the time, place, and manner of holding elections by the people, and the apportionment of representation, and the day of the commencement of the regular sessions of the legislative assembly shall be prescribed by law: *Provided*, *however*, That the governor shall have power to call the legislative assembly together by proclamation, on an extraordinary occasion at any time.

SEC. 5. That all male citizens of the United States above the age of twenty-one years, and all male persons of foreign birth over said age who shall have twelve months prior thereto declared their intention to become citizens of the United States, as now required by law, who are actual residents at the time of the passage of this act of that portion of said Territory which was declared by the proclamation of the President to be open for settlement on the twenty-second day of April, anno Domini eighteen hundred and eighty-nine, and of that portion of said Territory heretofore known as the Public Land Strip, shall be entitled to vote at the first election in the Territory. At every subsequent election the qualifications of voters and of holding office shall be such as may be prescribed by the legislative assembly, subject, however, to the following restrictions on the power of the legislative assembly, namely: First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years and by persons of foreign birth above that age who have declared, on oath, before a competent court of record, as required by the naturalization laws of the United States their intention to become citizens, and have taken an oath to support the Constitution of the United States, and who shall have been residents of the United States for the term of twelve months before the election at which they offer to vote. Second. There shall be no denial of the elective franchise or of holding office to a citizen on account of race, color, or previous condition of servitude. Third. No officer, soldier, seaman, marine, or other person in the Army or Navy, or attached to troops in the service of the United States, shall be allowed to vote in said Territory by reason of being on service therein. Fourth. No person belonging to the Army or Navy shall be elected to, or hold, any civil office or appointment in said Territory.

SEC. 6. That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Consti-

tution and laws of the United States, but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents, nor shall any law be passed impairing the right to private property, nor shall any unequal discrimination be made in taxing different kinds of property, but all property subject to the taxation shall be taxed in proportion to its value: *Provided*, That nothing herein shall be held to prohibit the levying and collecting license or special taxes in the Territory from persons engaged in any business therein, if the legislative power shall consider such taxes necessary. Every bill which shall have passed the council and the house of representatives of said Territory shall, before it becomes a law, be presented to the governor of the Territory. If he approve he shall sign it, but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large upon their journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the vote of both houses shall be determined by yeas and nays to be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return, in which case it shall not be a law.

Sec. 7. That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory. The governor shall nominate and, by and with the advice and consent of the council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all such officers, who shall hold their offices until the end of the first session of the legislative assembly; and he shall lay off the necessary districts for members of the council and house of representatives, and all other officers, and whenever a vacancy happens from resignation or death, during the recess of the legislative council in any office which is filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council. It is further provided that the legislative assembly shall not authorize the issuing any bond, script, or evidence of debt by the Territory, or any county, city, town, or township therein for the construction of any railroad.

Sec. 8. That no member of the legislative assembly shall hold or be appointed to any office which has been created or the salary or emoluments of which have been increased while he was a member, during the term for which he was elected and for one year after the expiration of such term, but this restriction shall not be applicable to members of the first legislative assembly provided for by this act; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative as-

sembly, or shall hold any office under the government of said Territory.

SEC. 9. That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and justices of the peace. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum. They shall hold their offices for four years, and until their successors are appointed and qualified, and they shall hold a term annually at the seat of government of said Territory. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace, who shall be elected in such manner as the legislative assembly may provide by law, shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction and authority for redress of all wrongs committed against the Constitution or laws of the United States or of the Territory affecting persons or property. Said Territory shall be divided into three judicial districts, and a district court shall be held in each county in said district thereof by one of the justices of the supreme court, at such time and place as may be prescribed by law, and each judge after assignment shall reside in the district to which he is assigned. The supreme court shall define said judicial districts, and shall fix the times and places at each county seat in each district where the district court shall be held and designate the judge who shall preside therein. And the territory not embraced in organized counties shall be attached for judicial purposes to such organized county or counties as the supreme court may determine. The supreme court of said Territory shall appoint its own clerk, who shall hold his office at the pleasure of the court for which he is appointed. Each district court shall appoint its clerk, who shall also be the register in chancery, and shall keep his office where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. Writs of error and appeals from the final decisions of said supreme court shall be allowed and may be taken to the Supreme Court of the United States in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by oath or affirmation of either party or other competent witness, shall exceed five thousand dollars; and each of the said district courts shall have and exercise, exclusive of any court heretofore established, the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States. In addition to the jurisdiction otherwise conferred by this act, said district courts shall have and exercise exclusive original jurisdiction over all offenses against the laws of the United States committed within that portion of the Cherokee Outlet not embraced within the boundaries of said Territory of Oklahoma as herein defined, and in all civil cases between

citizens of the United States residing in such portion of the Cherokee therein, when the value of the thing in controversy or damages or Territory, and any citizen of or person or persons residing or found therein, when the value of the thing in controversy or damages or money claimed shall exceed one hundred dollars; writs of error, bills of exceptions, and appeals shall in all such cases, civil and criminal, be allowed from the district courts to the supreme court in like manner, and be proceeded with in like manner as in cases arising within the limits of said Territory. For all judicial purposes as herein defined such portion of the Cherokee Outlet not embraced within the boundaries of the Territory of Oklahoma shall be attached to, and be a part of, one of the judicial districts of said Territory as may be designated by the Supreme court. All acts and parts of acts heretofore enacted, conferring jurisdiction upon United States courts held beyond and outside the limits of the Territory of Oklahoma as herein defined, as to all causes of action or offenses in said Territory, and in that portion of the Cherokee Outlet hereinbefore referred to, are hereby repealed, and such jurisdiction is hereby given to the supreme and district courts in said Territory; but all actions commenced in such courts, and crimes committed in said Territory and in the Cherokee Outlet, prior to the passage of this act, shall be tried and prosecuted, and proceeded with until finally disposed of, in the courts now having jurisdiction thereof, as if this act had not been passed. The said supreme and district courts of said Territory, and the respective judges thereof, shall and may grant writs of mandamus and habeas corpus in all cases authorized by law; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeals in all such cases shall be made to the supreme court of said Territory, as in other cases.

SEC. 10. Persons charged with any offense or crime in the Territory of Oklahoma, and for whose arrest a warrant has been issued, may be arrested by the United States marshal or any of his deputies, wherever found in said Territory, but in all cases the accused shall be taken, for preliminary examination, before a United States commissioner, or a justice of the peace of the county, whose office is nearest to the place where the offense or crime was committed.

All offenses committed in said Territory, if committed within any organized county, shall be prosecuted and tried within said county, and if committed within territory not embraced in any organized county, shall be prosecuted and tried in the county to which such territory shall be attached for judicial purposes. And all civil actions shall be instituted in the county in which the defendant, or either of them, resides or may be found; and when such actions arise within any portion of said Territory, not organized as a county, such actions shall be instituted in the county to which such territory is attached for judicial purposes; but any case, civil or criminal, may be removed, by change of venue, to another county.

SEC. 11. That the following chapters and provisions of the Compiled Laws of the State of Nebraska, in force November first, eighteen hundred and eighty-nine, in so far as they are locally applicable, and not in conflict with the laws of the United States or with this act, are

hereby extended to and put in force in the Territory of Oklahoma until after the adjournment of the first session of the legislative assembly of said Territory, namely: the provisions of articles two, three, and four of chapter two, entitled "Agriculture;" of chapter four, entitled "Animals;" of chapter six, entitled "Assignments;" of chapter seven, entitled "Attorneys;" of chapter ten, entitled "Bonds and oaths—official;" of chapter twelve, entitled "Chattel mortgages;" of chapter fourteen, entitled "Cities of the second class and villages;" of chapter fifteen, entitled "Common law;" of chapter sixteen, entitled "Corporations;" of chapter eighteen, entitled "Countys and county officers;" of sections fifteen and sixteen of article six of the constitution of said State, and of chapter twenty of said laws, entitled "Courts—probate;" of chapter twenty-three, entitled "Decedents;" of chapter twenty-four, entitled "Deputies;" of chapter twenty-five, entitled "Divorce and alimony;" of chapter twenty-six, entitled "Elections;" of chapter twenty-eight, entitled "Fees;" of chapter thirty-two, entitled "Frauds;" of chapter thirty-four, entitled "Guardians and wards;" of chapter thirty-six, entitled "Homesteads;" of chapter forty-one, entitled "Instruments negotiable;" of chapter forty-four, entitled "Interests;" of chapter forty-six, entitled "Jails;" of chapter fifty, entitled "Liquors;" but no licenses shall be issued under this chapter; of chapter fifty-two, entitled "Marriage;" of chapter fifty-three, entitled "Married women;" of chapter fifty-four, entitled "Mechanics' and laborers' liens;" of chapter sixty-one, entitled "Notaries public;" of chapter sixty-two, entitled "Oaths and affirmations;" of chapter sixty-three, entitled "Occupying claimants;" of article one of chapter seventy-two, entitled "Railroads;" of chapter seventy-three, entitled "Real estate;" and the provisions of part two of said laws, entitled "Code of civil procedure," and of part three thereof, entitled "Criminal code."

The governor of said Territory is authorized to divide each county into election precincts and into such political sub-divisions other than school districts as may be required by the laws of the State of Nebraska; and he is hereby authorized to appoint all officers of such counties and subdivisions thereof as he shall deem necessary, and all election officers until their election or appointment shall be provided for by the legislative assembly, but not more than two of the judges or inspectors of election in any election precinct shall be members of the same political party, and the candidates of each political party who may be voted for at such election may designate one person who shall be present at the counting and canvassing of the votes cast in each precinct.

The supreme and district courts of said Territory shall have the same power to enforce the laws of the State of Nebraska hereby extended to and put in force in said Territory as courts of like jurisdiction have in said State; but county courts and justices of the peace shall have and exercise the jurisdiction which is authorized by said laws of Nebraska: *Provided*, That the jurisdiction of justices of the peace in said Territory shall not exceed the sum of one hundred dollars, and county courts shall have jurisdiction in all cases where the sum or matter in demand exceeds the sum of one hundred dollars.

SEC. 12. That jurisdiction is hereby conferred upon the district courts in the Territory of Oklahoma over all controversies arising

between members or citizens of one tribe or nation of Indians and the members or citizens of other tribes or nations in the Territory of Oklahoma, and any citizen or member of one tribe or nation who may commit any offense or crime in said Territory against the person or property of a citizen or member of another tribe or nation shall be subject to the same punishment in the Territory of Oklahoma as he would be if both parties were citizens of the United States; and any person residing in the Territory of Oklahoma, in whom there is Indian blood, shall have the right to invoke the aid of courts therein for the protection of his person or property, as though he were a citizen of the United States: *Provided*, That nothing in this act contained shall be so construed as to give jurisdiction to the courts established in said Territory in controversies arising between Indians of the same tribe, while sustaining their tribal relation.

SEC. 13. That there shall be appointed for said Territory a person learned in the law, who shall act as attorney for the United States, and shall continue in office for four years, and until his successor is appointed and qualified, unless sooner removed by the President. Said attorney shall receive a salary at the rate of two hundred and fifty dollars annually. There shall be appointed a marshal for said Territory, who shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the President, and who shall execute all process issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States: he shall have the power and perform the duties and be subject to the same regulations and penalties imposed by law on the marshal of the United States, and be entitled to a salary at the rate of two hundred dollars a year. There shall be allowed to the attorney, marshal, clerks of the supreme and district courts the same fees as are prescribed for similar services by such persons in chapter sixteen, title Judiciary, of the Revised Statutes of the United States.

SEC. 14. That the governor, secretary, chief-justice, and associate justices, attorney, and marshal shall be nominated and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and Secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace, or other officer in the limits of said Territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief-Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings, and the chief-justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be recorded by him as aforesaid, and afterwards the like oath or

affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand six hundred dollars as governor; the chief-justice and associate justices shall receive an annual salary of three thousand dollars, and the Secretary shall receive an annual salary of one thousand eight hundred dollars. The said salaries shall be payable quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive four dollars each per day during their attendance at the sessions, and four dollars for each and every twenty miles traveled in going to and returning from said sessions, estimating the distance by the nearest traveled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, of the courts, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 15. That the legislative assembly of the Territory of Oklahome shall hold its first session at Guthrie, in said Territory, at such time as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

SEC. 16. That a Delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States in the said House of Representatives. The first election shall be held at such time and place, and be conducted in such manner as the governor shall appoint and direct, after at least sixty days' notice, to be given by proclamation, and at all subsequent elections the time, place, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes of the qualified electors, as hereinbefore provided, shall be declared by the governor elected, and a certificate thereof shall be accordingly given.

SEC. 17. That the provisions of title sixty-two of the Revised Statutes of the United States relating to national banks, and all amendments thereto, shall have the same force and effect in the Territory of Oklahoma as elsewhere in the United States: *Provided*, That persons otherwise qualified to act as directors shall not be required to have resided in said Territory for more than three months immediately preceding their election as such.

SEC. 18. That sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to public schools in the State or States hereafter to be erected out of the same. In all cases where

sections sixteen and thirty-six, or either of them, are occupied by actual settlers prior to survey thereof, the county commissioners of the counties in which such sections are so occupied are authorized to locate other lands, to an equal amount, in sections or fractional sections, as the case may be, within their respective counties, in lieu of the sections so occupied.

All the lands embraced in that portion of the Territory of Oklahoma heretofore known as the Public Land Strip, shall be open to settlement under the provisions of the homestead laws of the United States, except section twenty-three hundred and one of the Revised Statutes, which shall not apply; but all actual and bona fide settlers upon and occupants of the lands in said Public Land Strip at the time of the passage of this act shall be entitled to have preference to and hold the lands upon which they have settled under the homestead laws of the United States, by virtue of their settlement and occupancy of said lands, and they shall be credited with the time they have actually occupied their homesteads, respectively, not exceeding two years, on the time required under said laws to perfect title as homestead settlers.

The lands within said Territory of Oklahoma, acquired by cession of the Muscogee (or Creek) Nation of Indians, confirmed by act of Congress approved March first, eighteen hundred and eighty-nine, and also the lands acquired in pursuance of an agreement with the Seminole Nation of Indians by re-lease and conveyance, dated March sixteenth, eighteen hundred and eighty-nine, which may hereafter be open to settlement, shall be disposed of under the provisions of sections twelve, thirteen, and fourteen of the "Act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and ninety, and for other purposes," approved March second, eighteen hundred and eighty-nine, and under section two of an "Act to ratify and confirm an agreement with the Muscogee (or Creek) Nation of Indians in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine: *Provided, however*, That each settler under and in accordance with the provisions of said acts shall, before receiving a patent for his homestead on the land hereafter opened to settlement as aforesaid, pay to the United States for the land so taken by him, in addition to the fees provided by law, the sum of one dollar and twenty-five cents per acre.

Whenever any of the other lands within the Territory of Oklahoma, now occupied by any Indian tribe, shall by operation of law or proclamation of the President of the United States, be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead law, except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply: *Provided, however*, That each settler, under and in accordance with the provisions of said homestead laws, shall before receiving a patent for his homestead pay to the United States for the land so taken by him, in addition to the fees provided by law, a sum per acre equal to the amount which has been or may be paid by the United States to obtain a relinquishment of the Indian title or interest therein, but in no case shall such payment be less than one dollar and twenty-five cents per acre. The rights of honorably discharged

soldiers and sailors in the late civil war, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States, shall not be abridged except as to such payment. All tracts of land in Oklahoma Territory which have been set apart for school purposes, to educational societies, or missionary boards at work among the Indians, shall not be open for settlement, but are hereby granted to the respective educational societies or missionary boards for whose use the same has been set apart. No part of the land embraced within the Territory hereby created shall inure to the use or benefit of any railroad corporation, except the rights of way and land for stations heretofore granted to certain railroad corporations. Nor shall any provision of this act or any act of any officer of the United States, done or performed under the provisions of this act or otherwise, invest any corporation owning or operating any railroad in the Indian Territory, or Territory created by this act, with any land or right to any land in either of said Territories, and this act shall not apply to or affect any land which, upon any condition on becoming a part of the public domain, would inure to the benefit of, or become the property of, any railroad corporation.

SEC. 19. That portion of the Territory of Oklahoma heretofore known as the Public Land Strip is hereby declared a public land district, and the President of the United States is hereby empowered to locate a land office in said district, at such place as he shall select, and to appoint in conformity with existing law a register and receiver of said land office. He may also, whenever he shall deem it necessary, establish another additional land district within said Territory, locate a land office therein, and in like manner appoint a register and receiver thereof. And the Commissioner of the General Land Office shall, when directed by the President, cause the lands within the Territory to be properly surveyed and subdivided where the same has not already been done.

SEC. 20. That the procedure in applications, entries, contests, and adjudications in the Territory of Oklahoma shall be in form and manner prescribed under the homestead laws of the United States, and the general principles and provisions of the homestead laws, except as modified by the provisions of this act and the acts of Congress approved March first and second, eighteen hundred and eighty-nine, heretofore mentioned, shall be applicable to all entries made in said Territory, but no patent shall be issued to any person who is not a citizen of the United States at the time of making final proof.

All persons who shall settle on land in said Territory, under the provisions of the homestead laws of the United States, and of this act, shall be required to select the same in square form as nearly as may be; and no person who shall at the time be seized in fee simple of a hundred and sixty acres of land in any State or Territory, shall hereafter be entitled to enter land in said Territory of Oklahoma. The provisions of sections twenty-three hundred and four and twenty three hundred and five of the Revised Statutes of the United States shall, except so far as modified by this act, apply to all homestead settlements in said Territory.

SEC. 21. That any person, entitled by law to take a homestead in said Territory of Oklahoma, who has already located and filed upon, or shall hereafter locate and file upon, a homestead within the limits

described in the President's proclamation of April first, eighteen hundred and eighty nine, and under and in pursuance of the laws applicable to the settlement of the lands opened for settlement by such proclamation, and who has complied with all the laws relating to such homestead settlement, may receive a patent therefor at the expiration of twelve months from date of locating upon said homestead upon payment to the United States of one dollar and twenty-five cents per acre for land embraced in such homestead.

SEC. 22. That the provisions of title thirty-two, chapter eight of the Revised Statutes of the United States relating to "reservation and sale of town sites on the public lands" shall apply to the lands open, or to be opened to settlement in the Territory of Oklahoma, except those opened to settlement by the proclamation of the President on the twenty-second day of April, eighteen hundred and eighty-nine: *Provided*, That hereafter all surveys for town sites in said Territory shall contain reservations for parks (of substantially equal area if more than one park) and for schools and other public purposes, embracing in the aggregate not less than ten nor more than twenty acres; and patents for such reservations, to be maintained for such purposes, shall be issued to the towns respectively when organized as municipalities: *Provided further*, That in case any lands in said Territory of Oklahoma, which may be occupied and filed upon as a homestead, under the provisions of law applicable to said Territory, by a person who is entitled to perfect his title thereto under such laws, are required for town site purposes, it shall be lawful for such person to apply to the Secretary of the Interior to purchase the lands embraced in said homestead or any part thereof for town-site purposes. He shall file with the application a plat of such proposed town-site, and if such plat shall be approved by the Secretary of the Interior, he shall issue a patent to such person for land embraced in said town site, upon the payment of the sum of ten dollars per acre for all the lands embraced in such town site, except the lands to be donated and maintained for public purposes as provided in this section. And the sums so received by the Secretary of the Interior shall be paid over to the proper authorities of the municipalities when organized, to be used by them for school purposes only.

SEC. 23. That there shall be reserved public highways four rods wide between each section of land in said Territory, the section lines being the center of said highways; but no deduction shall be made, where cash payments are provided for, in the amount to be paid for each quarter section of land by reason of such reservation. But if the said highway shall be vacated by any competent authority, the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey.

SEC. 24. That it shall be unlawful for any person, for himself or any company, association, or corporation, to directly or indirectly procure any person to settle upon any lands open to settlement in the Territory of Oklahoma, with intent thereafter of acquiring title thereto; and any title thus acquired shall be void; and the parties to such fraudulent settlement shall severally be guilty of a misdemeanor, and shall be punished upon indictment, by imprisonment not exceeding twelve months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

SEC. 25. That inasmuch as there is a controversy between the United States and the State of Texas as to the ownership of what is known as Greer County, it is hereby expressly provided that this act shall not be construed to apply to said Greer County until the title to the same has been adjudicated and determined to be in the United States; and in order to provide for a speedy and final judicial determination of the controversy aforesaid the Attorney-General of the United States is hereby authorized and directed to commence in the name and on behalf of the United States, and prosecute to a final determination, a proper suit in equity in the Supreme Court of the United States against the State of Texas, setting forth the title and claim of he United States to the tract of land lying beween the North and South Forks of the Red River where the Indian Territory and the State of Texas adjoin, east of the one hundredth degree of longitude, and claimed by the State of Texas as within its boundary and a part of its land, and designated on its map as Greer County, in order that the rightful title to said land may be finally determined, and the court, on the trial of the case may, in its discretion, so far as the ends of justice will warrant, consider any evidence heretofore taken and received by the Joint Boundary Commission under the act of Congress approved January thirty-first, eighteen hundred and eighty-five; and said case shall be advanced on the docket of said court, and proceeded with to its conclusion as rapidly as the nature and circumstances of the case permit.

SEC. 26. That the following sums, or so much thereof as may be necessary, are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be disbursed under the direction of the Secretary of the Interior, in the same manner that similar appropriations are disbursed in the other Territories of the United States, namely:

To pay the expenses of the first legislative assembly of said Territory, including the printing of the session laws thereof, the sum of forty thousand dollars.

To pay the salaries of the governor, the judges of the supreme court, the secretary of the Territory, the marshal, the attorney, and other officers whose appointment is provided for in this act, for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of twenty thousand dollars.

To pay for the rent of buildings for the legislative and executive offices, and for the supreme and district courts; to provide jails, and support prisoners; to pay mileage and per diem of jurors and witnesses; to provide books, records, and stationery for the executive and judicial offices for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of fifteen thousand dollars.

To enable the governor to take a census of the inhabitants of said Territory, as required by law, the sum of five thousand dollars.

To be expended by the governor in temporary support and aid of common school education in said Territory, as soon as a system of public schools shall have been established by the legislative assembly, the sum of fifty thousand dollars.

SEC. 27. That the provisions of this act shall not be so construed as to invalidate or impair any legal claims or rights of persons occupying any portion of said Territory, under the laws of the United

States, but such claims shall be adjudicated by the Land Department, or the courts, in accordance with their respective jurisdictions.

SEC. 28. That the Constitution and all the laws of the United States not locally inapplicable shall, except so far as modified by this act, have the same force and effect as elsewhere within the United States; and all acts and parts of acts in conflict with the provisions of this act are as to their effect in said Territory of Oklahoma hereby repealed: *Provided*, That section eighteen hundred and fifty of the Revised Statutes of the United States shall not apply to the Territory of Oklahoma.

SEC. 29. That all that part of the United States which is bounded on the north by the State of Kansas, on the east by the States of Arkansas and Missouri, on the south by the State of Texas, and on the west and north by the Territory of Oklahoma as defined in the first section of this act, shall, for the purposes of this act, be known as the Indian Territory; and the jurisdiction of the United States court established under and by virtue of an act entitled "An act to establish a United States court in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine, is hereby limited to and shall extend only over the Indian Territory as defined in this section; that the court established by said act shall, in addition to the jurisdiction conferred thereon by said act, have and exercise within the limits of the Indian Territory jurisdiction in all civil cases in the Indian Territory, except cases over which the tribal courts have exclusive jurisdiction; and in all cases on contracts entered into by citizens of any tribe or nations with citizens of the United States in good faith and for valuable consideration, and in accordance with the laws of such tribe or nation, and such contracts shall be deemed valid and enforced by such courts; and in all cases over which jurisdiction is conferred by this act or may hereafter be conferred by act of Congress; and the provisions of this act hereinafter set forth shall apply to said Indian Territory only.

SEC. 30. That for the purpose of holding terms of said court, said Indian Territory is hereby divided into three divisions, to be known as the first, second, and third division. The first division shall consist of the country occupied by the Indian tribes in the Quapaw Indian Agency and all that part of the Cherokee country east of the ninety-sixth meridian and all of the Creek country; and the place for holding said court therein shall be at Muskogee. The second division shall consist of the Choctaw country, and the place for holding said court therein shall be at South McAlister. The third division shall consist of the Chickasaw and Seminole countries, and the place for holding said court therein shall be at Ardmore. That the Attorney-General of the United States may, if in his judgment it shall be necessary, appoint an assistant attorney for said court. And the clerk of said court shall appoint a deputy clerk in each of said divisions in which said clerk does not himself reside at the place in such division where the terms of said court are to be held. Such deputy clerk shall keep his office and reside at the place appointed for holding said court in the division of such residence, and shall keep the records of said court for such division, and in the absence of the clerk may exercise all the official powers of the clerk within the division for which he is appointed: *Provided*, That the appointment of such deputies shall be approved by said United

States court in the Indian Territory, and may be annulled by said court at its pleasure, and the clerk shall be responsible for the official acts and negligence of his respective deputies. The judge of said court shall hold at least two terms of said court each year in each of the divisions aforesaid, at such regular times as said judge shall fix and determine, and shall be paid his actual traveling expenses and subsistence while attending and holding court at places other than Muscogee. And jurors for each term of said court, in each division, shall be selected and summoned in the manner provided in said act, three jury commissioners to be selected by said court for each division, who shall possess all the qualifications and perform in said division all the duties required of the jury commissioners provided for in said act. All prosecutions for crimes or offenses hereafter committed in said Indian Territory shall be cognizable within the division in which such crime or offense shall have been committed. And all civil suits shall be brought in the division in which the defendant or defendants reside or may be found; but if there be two or more defendants residing in different divisions, the action may be brought in any division in which either of the defendants resides or may be found. And all cases shall be tried in the division in which the process is returnable as herein provided, unless said judge shall direct such case to be removed to one of the other divisions: *Provided, however*, That the judicial tribunals of the Indian nations shall retain exclusive jurisdiction in all civil and criminal cases arising in the country in which members of the nation by nativity or by adoption shall be the only parties; and as to all such cases the laws of the State of Arkansas extended over and put in force in said Indian Territory by this act shall not apply.

SEC. 31. That certain general laws of the State of Arkansas in force at the close of the session of the general assembly of that State of eighteen hundred and eighty-three, as published in eighteen hundred and eighty-four in the volume known as Mansfield's Digest of the Statutes of Arkansas, which are not locally inapplicable or in conflict with this act or with any law of Congress, relating to the subjects specially mentioned in this section, are hereby extended over and put in force in the Indian Territory until Congress shall otherwise provide, that is to say, the provisions of the said general statutes of Arkansas relating to administration, chapter one, and the United States court in the Indian Territory herein referred to shall have and exercise the powers of courts of probate under said laws; to public administrators, chapter two, and the United States marshal of the Indian Territory shall perform the duties imposed by said chapter on the sheriffs in said State; to arrest and bail, civil, chapter seven; to assignment for benefit of creditors, chapter eight; to attachments, chapter nine; to attorneys at law, chapter eleven; to bills of exchange and promissory notes, chapter fourteen; to civil rights, chapter eighteen; to common and statute law of England, chapter twenty; to contempts, chapter twenty-six; to municipal corporations, chapter twenty-nine, division one; to costs, chapter thirty; to descents and distributions, chapter forty-nine; to divorce, chapter fifty-two, and said court in the Indian Territory shall exercise the powers of the circuit courts of Arkansas under this chapter; to dower, chapter fifty-two; to evidence, chapter fifty-nine; to execution, chapter sixty; to fees, chapter sixty-three; to forcible entry

and detainer, chapter sixty-seven; to frauds, statute of, chapter sixty-eight; to fugitives from justice, chapter sixty-nine; to gaming contracts, chapter seventy; to guardians, curators, and wards, chapter seventy-three, and said court in the Indian Territory shall appoint guardians and curators; to habeas corpus, chapter seventy-four; to injunction, chapter eighty-one; to insane persons and drunkards, chapter eighty-two, and said court in the Indian Territory shall exercise the powers of the probate courts of Arkansas under this chapter; to joint and several obligations and contracts, chapter eighty-seven; to judgments and decrees, chapter eighty-eight; to judgments summary, chapter eighty-nine; to jury, chapter ninety; to landlord and tenant, chapter ninety-two; to legal notices and advertisements, chapter ninety-four; to liens, chapter ninety-six; to limitations, chapter ninety-seven; to mandamus and prohibition, chapter one hundred; to marriage contracts, chapter one hundred and two; to marriages, chapter one hundred and three; to married women, chapter one hundred and four; to money and interest, chapter one hundred and nine; to mortgages, chapter one hundred and ten; to notaries public, chapter one hundred and eleven, and said court in the Indian Territory shall appoint notaries public under this chapter; to partition and sale of lands, chapter one hundred and fifteen; to pleadings and practice, chapter one hundred and nineteen; to recorders, chapter one hundred and twenty-six; to replevin, chapter one hundred and twenty-eight; to venue, change of, chapter one hundred and fifty-three; and to wills and testaments, chapter one hundred and fifty-five; and wherever in said laws of Arkansas the courts of record of said State are mentioned the said court in the Indian Territory shall be substituted therefor; and wherever the clerks of said courts are mentioned in said laws the clerk of said court in the Indian Territory and his deputies, respectively, shall be substituted therefor; and wherever the sheriff of the county is mentioned in said laws the United States marshal of the Indian Territory shall be substituted therefor, for the purpose, in each of the cases mentioned, of making said laws of Arkansas applicable to the Indian Territory.

That no attachment shall issue against improvements on real estate while the title to the land is vested in any Indian nation, except where such improvements have been made by persons, companies, or corporations operating coal or other mines, railroads, or other industries under lease or permission of law of an Indian national council, or charter, or law of the United States.

That executions upon judgments obtained in any other than Indian courts shall not be valid for the sale or conveyance of title to improvements made upon lands owned by an Indian nation, except in the cases wherein attachments are provided for. Upon a return of nulla bona, upon an execution upon any judgment against an adopted citizen of any Indian tribe, or against any person residing in the Indian country and not a citizen thereof, if the judgment debtor shall be the owner of any improvements upon real estate within the Indian Territory in excess of one hundred and sixty acres occupied as a homestead, such improvements may be subjected to the payment of such judgment by a decree of the court in which such judgment was rendered. Proceedings to subject such property to the payment of judgments may be by petition, of which the judgment

debtor shall have notice as in the original suit. If on the hearing the court shall be satisfied from the evidence that the judgment debtor is the owner of improvements on real estate, subject to the payment of said judgment, the court may order the same sold, and the proceeds, or so much thereof as may be necessary to satisfy said judgment and costs, applied to the payment of said judgment; or if the improvement is of sufficient rental value to discharge the judgment within a reasonable time the court may appoint a receiver, who shall take charge of such property and apply the rental receipts thereof to the payment of such judgment, under such regulations as the court may prescribe. If under such proceeding any improvement is sold only citizens of the tribe in which said property is situate may become the purchaser thereof.

The Constitution of the United States and all general laws of the United States which prohibit crimes and misdemeanors in any place within the sole and exclusive jurisdiction of the United States, except in the District of Columbia, and all laws relating to national banking associations shall have the same force and effect in the Indian Territory as elsewhere in the United States; but nothing in this act shall be so construed as to deprive any of the courts of the civilized nations of exclusive jurisdiction over all cases arising wherein members of said nations, whether by treaty, blood, or adoption, are the sole parties, nor so as to interfere with the right and power of said civilized nations to punish said members for violation of the statutes and laws enacted by their national councils where such laws are not contrary to the treaties and laws of the United States.

SEC. 32. That the word "county," as used in any of the laws of Arkansas which are put in force in the Indian Territory by the provisions of this act, shall be construed to embrace the territory within the limits of a judicial division in said Indian Territory; and whenever in said laws of Arkansas the word "county" is used, the words "judicial division" may be substituted therefor, in said Indian Territory, for the purposes of this act. And whenever in said laws of Arkansas the word "State" or the words "State of Arkansas" are used, the word "Territory," or the words "Indian Territory," may be substituted therefor, for the purposes of this act, and for the purpose of making said laws of Arkansas applicable to the said Indian Territory; but all prosecutions therein shall run in the name of the "United States."

SEC. 33. That the provisions of chapter forty-five of the said general laws of Arkansas, entitled "Criminal law," except as to the crimes and misdemeanor mentioned in the provisos to this section, and the provisions of chapter forty-six of said general laws of Arkansas, entitled "Criminal Procedure," as far as they are applicable, are hereby extended over and put in force in the Indian Territory, and jurisdiction to enforce said provisions is hereby conferred upon the United States court therein: *Provided*, That in all cases where the laws of the United States and the said criminal laws of Arkansas have provided for the punishment of the same offenses the laws of the United States shall govern as to such offenses: *And provided further*, That the United States circuit and district courts, respectively, for the western district of Arkansas and the eastern district of Texas, respectively, shall continue to exercise exclusive

jurisdiction as now provided by law in the Indian Territory as defined in this act, in their respective districts as heretofore established, over all crimes and misdemeanors against the laws of the United States applicable to the said Territory, which are punishable by said laws of the United States by death or by imprisonment at hard labor, except as otherwise provided in the following sections of this act.

SEC. 34. That original jurisdiction is hereby conferred upon the United States court in the Indian Territory to enforce the provisions of title twenty-eight, chapters three and four, of the Revised Statutes of the United States in said Territory, except the offenses defined and embraced in sections twenty-one hundred and forty-two and twenty-one hundred and forty-three: *Provided*, That as to the violations of the provisions of section twenty-one hundred and thirty-nine of said Revised Statutes, the jurisdiction of said court in the Indian Territory shall be concurrent with the jurisdiction exercised in the enforcement of such provisions by the United States courts for the western district of Arkansas and the eastern district of Texas: *Provided*, That all violations of said chapters three and four, prior to the passage of this act, shall be prosecuted in the said United States courts, respectively, the same as if this act had not been passed.

SEC. 35. That exclusive original jurisdiction is hereby conferred upon the United States court in the Indian Territory to enforce the provisions of chapter four, title seventy, of the Revised Statutes of the United States entitled "Crimes against justice," in all cases where the crimes mentioned therein are committed in any judicial proceeding in the Indian Territory and where such crimes affect or impede the enforcement of the laws in the courts established in said Territory: *Provided*, That all violations of the provisions of said chapter prior to the passage of this act shall be prosecuted in the United States courts for the western district of Arkansas and the eastern district of Texas, respectively, the same as if this act had not been passed.

SEC. 36. That jurisdiction is hereby conferred upon the United States court in the Indian Territory over all controversies arising between members or citizens of one tribe or nation of Indians and the members or citizens of other tribes or nations in the Indian Territory, and any citizen or member of one tribe or nation who may commit any offense or crime against the person or property of a citizen or member of another tribe or nation shall be subject to the same punishment in the Indian Territory as he would be if both parties were citizens of the United States. And any member or citizen of any Indian tribe or nation in the Indian Territory shall have the right to invoke the aid of said court therein for the protection of his person or property as against any person not a member of the same tribe or nation, as though he were a citizen of the United States.

SEC. 37. That if any person shall, in the Indian Territory, open, carry on, promote, make or draw, publicly or privately, any lottery, or scheme of chance of any kind or description, by whatever name, style or title the same may be denominated or known, or shall, in said Territory, vend, sell, barter or dispose of any lottery ticket or tickets, order or orders, device or devices, of any kind, for, or representing any number of shares or any interest in any lottery or scheme of chance, or shall open or establish as owner or otherwise any lottery

or scheme of chance in said Territory, or shall be in any wise concerned in any lottery or scheme of chance, by acting as owner or agent in said Territory, for or on behalf of any lottery or scheme of chance, to be drawn, paid or carried on, either out of or within said Territory, every such person shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined for the first offense, not exceeding five hundred dollars, and for the second offense shall, on conviction, be fined not less than five hundred dollars and not exceeding five thousand, and he may be imprisoned, in the discretion of the court, not exceeding one year. And jurisdiction to enforce the provisions of this section is hereby conferred upon the United States court in said Indian Territory, and all persons therein, including Indians and members and citizens of Indian tribes and nations, shall be subject to its provisions and penalties.

SEC. 38. The clerk and deputy clerks of said United States court shall have the power within their respective divisions to issue marriage licenses or certificates and to solemnize marriages. They shall keep copies of all marriage licenses or certificates issued by them, and a record book in which shall be recorded all licenses or certificates after the marriage has been solemnized, and all persons authorized by law to solemnize marriages shall return the license or certificate, after executing the same, to the clerk or deputy clerk who issued it, together with his return thereon. They shall also be ex-officio recorders within their respective divisions, and as such they shall perform such duties as are required of recorders of deeds under the said laws of Arkansas, and receive the fees and compensation therefor which are provided in said laws of Arkansas for like service: *Provided*, That all marriages heretofore contracted under the laws or tribal customs of any Indian nation now located in the Indian Territory are hereby declared valid, and the issue of such marriages shall be deemed legitimate and entitled to all inheritance of property or other rights, the same as in the case of the issue of other forms of lawful marriage: *Provided further*, That said chapter one hundred and three of said laws of Arkansas shall not be construed so as to interfere with the operation of the laws governing marriage enacted by any of the civilized tribes, nor to confer any authority upon any officer of said court to unite a citizen of the United States in marriage with a member of any of the civilized nations until the preliminaries to such marriage shall have first been arranged according to the laws of the nation of which said Indian person is a member: *And provided further*, That where such marriage is required by law of an Indian nation to be of record, the certificate of such marriage shall be sent for record to the proper officer, as provided in such law enacted by the Indian nation.

SEC. 39. That the United States court in the Indian Territory shall have all the powers of the United States circuit courts or circuit court judges to appoint commissioners within said Indian Territory, who shall be learned in the law, and shall be known as United States commissioners; but not exceeding three commissioners shall be appointed for any one division, and such commissioners when appointed shall have, within the district to be designated in the order appointing them, all the powers of commissioners of circuit courts of the United States. They shall be ex officio notaries public, and shall have power to solemnize marriages. The provisions of chapter

ninety-one of the said laws of Arkansas, regulating the jurisdiction and procedure before justices of the peace, are hereby extended over the Indian Territory; and said commissioners shall exercise all the powers conferred by the laws of Arkansas upon justices of the peace within their districts; but they shall have no jurisdiction to try any cause where the value of the thing or the amount in controversy exceeds one hundred dollars.

Appeals may be taken from the final judgment of said commissioners to the United States court in said Indian Territory in all cases and in the same manner that appeals may be taken from the final judgments of justices of the peace under the provisions of said chapter ninety-one. The said court may appoint a constable for each of the commissioner's districts designated by the court, and the constable so appointed shall perform all the duties required of constables under the provision of chapter twenty-four and other laws of the State of Arkansas. Each commissioner and constable shall execute to the United States, for the security of the public, a good and sufficient bond, in the sum of five thousand dollars, to be approved by the judge appointing him, conditioned that he will faithfully discharge the duties of his office and account for all moneys coming into his hands, and he shall take an oath to support the Constitution of the United States and to faithfully perform the duties required of him.

The appointments of United States commissioners by said court held at Muscogee, in the Indian Territory, heretofore made, and all acts in pursuance of law and in good faith performed by them, are hereby ratified and validated.

SEC. 40. That persons charged with any offense or crime in the Indian Territory, and for whose arrest a warrant has been issued, may be arrested by the United States marshal or any of his deputies, wherever found in said Territory, but in all cases the accused shall be taken, for preliminary examination, before the commissioner in the judicial division whose office or place of business is nearest by the route usually traveled to the place where the offense or crime was committed; but this section shall apply only to crimes or offenses over which the courts located in the Indian Territory have jurisdiction: *Provided*, That in all cases where persons have been brought before a United States commissioner in the Indian Territory for preliminary examination, charged with the commission of any crime therein, and where it appears from the evidence that a crime has been committed, and that there is probable cause to believe the accused guilty thereof, but that the crime is one over which the courts in the Indian Territory have no jurisdiction, the accused shall not, on that account, be discharged, but the case shall be proceeded with as provided in section ten hundred and fourteen of the Revised Statutes of the United States.

SEC. 41. That the judge of the United States court in the Indian Territory shall have the same power to extradite persons who have taken refuge in the Indian Territory, charged with crimes in the States or other Territories of the United States, that may now be exercised by the governor of Arkansas in that State, and he may issue requisitions upon governors of States and other Territories for persons who have committed offenses in the Indian Territory, and who have taken refuge in such States or Territories.

SEC. 42. That appeals and writs of error may be taken and prosecuted from the decisions of the United States court in the Indian Territory to the Supreme Court of the United States in the same manner and under the same regulations as from the circuit courts of the United States, except as otherwise provided in this act.

SEC. 43. That any member of any Indian tribe or nation residing in the Indian Territory may apply to the United States court therein to become a citizen of the United States, and such court shall have jurisdiction thereof and shall hear and determine such application as provided in the statutes of the United States; and the Confederated Peoria Indians residing in the Quapaw Indian Agency, who have heretofore or who may hereafter accept their land in severalty under any of the allotment laws of the United States, shall be deemed to be, and are hereby, declared to be citizens of the United States from and after the selection of their allotments, and entitled to all the rights, privileges, and benefits as such, and parents are hereby declared from that time to have been and to be the legal guardians of their minor children without process of court: *Provided*, That the Indians who become citizens of the United States under the provisions of this act do not forfeit or lose any rights or privileges they enjoy or are entitled to as members of the tribe or nation to which they belong.

SEC. 44. That the following sum, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be disbursed under the direction of the Attorney-General of the United States, in the same manner that similar appropriations are disbursed in the other Territories of the United States, namely:

To pay the actual traveling and other expenses of the judge of the United States court holding court in said Indian Territory other than at Muscogee; to pay for the rent of buildings for the court; to provide jails and support prisoners; to pay mileage and per diem of jurors and witnesses; to provide books, records, and stationery for the judicial offices for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of ten thousand dollars.

Approved, May 2, 1890.

ENABLING ACT FOR OKLAHOMA—1906

[FIFTY-NINTH CONGRESS, FIRST SESSION]

An Act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of all that part of the area of the United States now constituting the Territory of Oklahoma and the Indian Territory, as at present described, may adopt a constitution and become the State of Oklahoma,

as hereinafter provided: *Provided*, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this Act had never been passed.

SEC. 2. That all male persons over the age of twenty-one years, who are citizens of the United States, or who are members of any Indian nation or tribe in said Indian Territory and Oklahoma, and who have resided within the limits of said proposed State for at least six months next preceding the election, are hereby authorized to vote for and choose delegates to form a constitutional convention for said proposed State; and all persons qualified to vote for said delegates shall be eligible to serve as delegates; and the delegates to form such convention shall be one hundred and twelve in number, fifty-five of whom shall be elected by the people of the Territory of Oklahoma, and fifty-five by the people of Indian Territory, and two shall be elected by the electors residing in the Osage Indian Reservation in the Territory of Oklahoma; and the governor, the chief justice, and the secretary of the Territory of Oklahoma shall apportion the Territory of Oklahoma into fifty-six districts, as nearly equal in population as may be, except that such apportionment shall include as one district the Osage Indian Reservation, and the governor, the chief justice, and the secretary of the Territory of Oklahoma shall appoint an election commissioner who shall establish voting precincts in said Osage Indian Reservation, and shall appoint the judges for election in said Osage Indian Reservation; and two delegates shall be elected from said Osage district; and the Commissioner to the Five Civilized Tribes, and two judges of the United States courts for the Indian Territory, to be designated by the President, shall constitute a board, which shall apportion the said Indian Territory into fifty-five districts, as nearly equal in population as may be, and one delegate shall be elected from each of said districts; and the governor of said Oklahoma Territory, together with the judge senior in service of the United States courts in Indian Territory, shall, by proclamation in which such apportionment shall be fully specified and announced, order an election of the delegates aforesaid in said proposed State at a time designated by them within six months after the approval of this Act, which proclamation shall be issued at least sixty days prior to the time of holding said election of delegates. The election for delegates in the Territory of Oklahoma and in said Indian Territory shall be conducted, the returns made, the result ascertained, and the certificates of all persons elected to such convention issued in the same manner as is prescribed by the laws of the Territory of Oklahoma regulating elections for Delegates to Congress. That the election laws of the Territory of Oklahoma now in force, as far as applicable and not in conflict with this Act, including the penal laws of said Territory of Oklahoma relating to elections and illegal voting, are hereby extended to and put in force in said Indian Territory until the legislature of said proposed State shall otherwise provide, and until all persons offending against said laws in the election aforesaid shall have been

dealt with in the manner therein provided. And the United States courts of said Indian Territory shall have the same power to enforce the laws of the Territory of Oklahoma, hereby extended to and put in force in said Territory, as have the courts of the Territory of Oklahoma: *Provided*, *however*, That said board to apportion districts in Indian Territory shall, for the purpose of said election, appoint an election commissioner for each district who shall distribute all ballots and election supplies to the several precincts in his district, receive the election returns from the judges in precincts, and deliver the same to the canvassing board herein named, establish and define the necessary election precincts, and appoint three judges of election for each precinct, not more than two of whom shall be of the same political party, which judges may appoint the necessary clerk or clerks; that said judges of election, so appointed, shall supervise the election in their respective precincts, and canvass and make due return of the vote cast, to the election commissioner for said district who shall deliver said returns, poll books, and ballots to said board, which shall constitute the ultimate and final canvassing board of said election, and they shall issue certificates of election to all persons elected to such convention from the various districts of the Indian Territory, and their certificates of election shall be prima facie evidence as to the election of delegates: *Provided further*, That in said Indian Territory and Osage Indian Reservation, nominations for delegate to said constitutional convention may be made by convention, by the Republican, Democratic, and People's Party, or by petition in the manner provided by the laws of the Territory of Oklahoma; and certificates and petitions of nomination in said Indian Territory shall be filed with the districting and canvassing board who shall perform the duties of election commissioner under said law, and shall prepare, print, and distribute all ballots, poll books, and election supplies necessary for the holding of said election under said laws. The capital of said State shall temporarily be at the city of Guthrie, in the present Territory of Oklahoma and shall not be changed therefrom previous to anno Domini nineteen hundred and thirteen, but said capital shall, after said year, be located by the electors of said State at an election to be provided for by the legislature: *Provided*, *however*, That the legislature of said State, except as shall be necessary for the convenient transaction of the public business of said State at said capital, shall not appropriate any public moneys of the State for the erection of buildings for capitol purposes during such period.

SEC. 3. That the delegates to the convention thus elected shall meet at the seat of government of said Oklahoma Territory on the second Tuesday after their election, excluding the day of election in case such day shall be Tuesday, but they shall not receive compensation for more than sixty days of service, and, after organization, shall declare, on behalf of the people of said proposed State, that they adopt the Constitution of the United States; whereupon the said convention shall, and is hereby authorized to, form a constitution and State government for said proposed State. The constitutions shall be republican in form, and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide in said constitution—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship, and that polygamous or plural marriages are forever prohibited.

Second. That the manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors within those parts of said State now known as the Indian Territory and the Osage Indian Reservation and within any other parts of said State which existed as Indian reservations on the first day of January, nineteen hundred and six, is prohibited for a period of twenty-one years from the date of the admission of said State into the Union, and thereafter until the people of said State shall otherwise provide by amendment of said constitution and proper State legislation. Any person, individual or corporate, who shall manufacture, sell, barter, give away, or otherwise furnish any intoxicating liquor of any kind, including beer, ale, and wine, contrary to the provisions of this section, or who shall, within the above-described portions of said State, advertise for sale or solicit the purchase of any such liquors, or who shall ship or in any way convey such liquors from other parts of said State into the portions hereinbefore described, shall be punished, on conviction thereof, by fine not less than fifty dollars and by imprisonment not less than thirty days for each offense: *Provided*, That the legislature may provide by law for one agency under the supervision of said State in each incorporated town of not less than two thousand population in the portions of said State hereinbefore described; and if there be no incorporated town of two thousand population in any county in said portions of said State, such county shall be entitled to have one such agency, for the sale of such liquors for medicinal purposes; and for the sale, for industrial purposes, of alcohol which shall have been denaturized by some process approved by the United States Commissioner of Internal Revenue; and for the sale of alcohol for scientific purposes to such scientific institutions, universities, and colleges as are authorized to procure the same free of tax under the laws of the United States; and for the sale of such liquors to any apothecary who shall have executed an approved bond, in a sum not less than one thousand dollars, conditioned that none of such liquors shall be used or disposed of for any purpose other than in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of the special tax required of liquor dealers by the United States, and the payment of such special tax by any person within the parts of said State hereinabove defined shall constitute prima facie evidence of his intention to violate the provisions of this section. No sale shall be made except upon the sworn statement of the applicant in writing setting forth the purpose for which the liquor is to be used, and no sale shall be made for medicinal purposes except sales to apothecaries as hereinabove provided unless such statement shall be accompanied by a bona fide prescription signed by a regular practicing physician, which prescription shall not be filled more than once. Each sale shall be duly registered, and the register thereof, together with the affidavits and prescriptions pertaining thereto, shall be open to inspection by any officer or citizen of said State at all times during business hours. Any person who shall knowingly make a false affidavit for

the purpose aforesaid shall be deemed guilty of perjury. Any physician who shall prescribe any such liquor, except for treatment of disease which after his own personal diagnosis he shall deem to require such treatment, shall, upon conviction thereof, be punished for each offense by fine of not less than two hundred dollars or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and any person connected with any such agency who shall be convicted of making any sale or other disposition of liquor contrary to these provisions shall be punished by imprisonment for not less than one year and one day. Upon the admission of said State into the Union these provisions shall be immediately enforceable in the courts of said State.

Third. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe, or nation; and that until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal, and control of the United States. That land belonging to citizens of the United States residing without the limits of said State shall never be taxed at a higher rate than the land belonging to residents thereof; that no taxes shall be imposed by the State on lands or property belonging to or which may hereafter be purchased by the United States or reserved for its use.

Fourth. That the debts and liabilities of said Territory of Oklahoma shall be assumed and paid by said State.

Fifth. That provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control; and said schools shall always be conducted in English: *Provided*, That nothing herein shall preclude the teaching of other languages in said public schools: *And provided further*, That this shall not be construed to prevent the establishment and maintenance of separate schools for white and colored children.

Sixth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude.

SEC. 4. That in case a constitution and State government shall be formed in compliance with the provisions of this Act the convention forming the same shall provide by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection at an election to be held at a time fixed in said ordinance, at which election the qualified voters for said proposed State shall vote directly for or against the proposed constitution, and for or against any provisions separately submitted. The returns of said election shall be made to the secretary of the Territory of Oklahoma, who, with the chief justice thereof and the senior judge of the United States court of appeals for the Indian Territory, shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution the governor of Oklahoma Territory and the judge senior in service of the United States court of appeals for the Indian Territory shall certify the result to the President of the United States, together with the statement of the votes cast thereon,

and upon separate articles or propositions and a copy of said constitution, articles, propositions, and ordinances. And if the constitution and government of said proposed State are republican in form, and if the provisions in this Act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within twenty days from the receipt of the certificate of the result of said election and the statement of votes cast thereon and a copy of said constitution, articles, propositions, and ordinances, to issue his proclamation announcing the result of said election; and thereupon the proposed State of Oklahoma shall be deemed admitted by Congress into the Union, under and by virtue of this Act, on an equal footing with the original States. The original of said constitution, articles, propositions, and ordinances, and the election returns, and a copy of the statement of the votes cast at said election, shall be forwarded and turned over by the secretary of the Territory of Oklahoma to the State authorities of said State.

SEC. 5. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the defraying of the expenses of the elections provided for in this Act, and said convention, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial legislature of the Territory of Oklahoma, and the disbursements of the money appropriated by this section shall be made by the secretary of the Territory of Oklahoma.

SEC. 6. That until the next general census, or until otherwise provided by law, the said State of Oklahoma shall be entitled to five Representatives in the House of Representatives of the United States, to be elected from the following-described districts, the boundaries of which shall remain the same until the next general census:

That district numbered one shall comprise the counties of Grant, Kay, Garfield, Noble, Pawnee, Kingfisher, Logan, Payne, Lincoln, and the territory comprising the Osage and Kansas Indian reservations.

That district numbered two shall comprise the counties of Oklahoma, Canadian, Blaine, Caddo, Custer, Dewey, Day, Woods, Woodward, and Beaver.

That district numbered three shall (with the exception of that part of recording district numbered twelve, which is in the Cherokee and Creek nations) comprise all the territory now constituting the Cherokee, Creek, and Seminole nations, and the Indian reservations lying northeast of the Cherokee Nation, within said State.

That district numbered four shall comprise all that territory now constituting the Choctaw Nation, that part of recording district numbered twelve which is in the Cherokee and Creek nations, that part of recording district numbered twenty-five which is in the Chickasaw Nation, and the territory comprising recording districts numbered sixteen, twenty-one, twenty-two, and twenty-six, in the Indian Territory.

That district numbered five shall comprise the counties of Greer, Roger Mills, Kiowa, Washita, Comanche, Cleveland, and Pottawatomie, and the territory comprising recording districts numbered seventeen, eighteen, nineteen, and twenty, in the Chickasaw Nation, Indian Territory.

And the said Representatives, together with the governor and other officers provided for in said constitution, shall be elected on the same day of the election for the ratification or rejection of the constitution; and until said officers are elected and qualified under the provisions of such constitution and the said State is admitted into the Union, the Territorial officers of Oklahoma Territory shall continue to discharge the duties of their respective offices in said Territory.

SEC. 7. That upon the admission of the State into the Union sections numbered sixteen and thirty-six, in every township in Oklahoma Territory, and all indemnity lands heretofore selected in lieu thereof, are hereby granted to the State for the use and benefit of the common schools: *Provided*, That sections sixteen and thirty-six embraced in permanent reservations for national purposes shall not at any time be subject to the grant nor the indemnity provisions of this Act, nor shall any lands embraced in Indian, military, or other reservations of any character, nor shall land owned by Indian tribes or individual members of any tribe be subjected to the grants or to the indemnity provisions of this Act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain: *Provided*, That there is sufficient untaken public land within said State to cover this grant: *And provided*, That in case any of the lands herein granted to the State of Oklahoma have heretofore been confirmed to the Territory of Oklahoma for the purposes specified in this Act, the amount so confirmed shall be deducted from the quantity specified in this Act.

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of five million dollars for the use and benefit of the common schools of said State in lieu of sections sixteen and thirty-six, and other lands of the Indian Territory. Said appropriation shall be paid by the Treasurer of the United States at such time and to such person or persons as may be authorized by said State to receive the same under laws to be enacted by said State, and until said State shall enact such laws said appropriation shall not be paid, but said State shall be allowed interest thereon at the rate of three per centum per annum, which shall be paid to said State for the use and benefit of its public schools. Said appropriation of five million dollars shall be held and invested by said State, in trust, for the use and benefit of said schools, and the interest thereon shall be used exclusively in the support and maintenance of said schools: *Provided*, That nothing in this Act contained shall repeal or affect any Act of Congress relating to the Sulphur Springs Reservation as now defined or as may be hereafter defined or extended, or the power of the United States over it or any other lands embraced in the State hereafter set aside by Congress as a national park, game preserve, or for the preservation of objects of archæological or ethnological interest; and nothing contained in this Act shall interfere with the rights and ownership of the United States in any land hereafter set aside by Congress as national park, game preserve, or other reservation, or in the said Sulphur Springs Reservation, as it now is or may be hereafter defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said Sulphur Springs Reservation or national parks, game preserves,

and other reservations hereafter established by law, of civil and criminal processes lawfully issued by the authority of said State, and said State shall not be entitled to select indemnity school lands for the thirteenth, sixteenth, thirty-third, and thirty-sixth sections that may be embraced within the metes and bounds of the national park, game preserve, and other reservation or the said Sulphur Springs Reservation, as now defined or may be hereafter defined.

SEC. 8. That section thirteen in the Cherokee Outlet, the Tonkawa Indian Reservation, and the Pawnee Indian Reservation, reserved by the President of the United States by proclamation issued August nineteenth, eighteen hundred and ninety-three, opening to settlement the said lands, and by any Act or Acts of Congress since said date, and section thirteen in all other lands which have been or may be opened to settlement in the Territory of Oklahoma, and all lands heretofore selected in lieu thereof, is hereby reserved and granted to said State for the use and benefit of the University of Oklahoma and the University Preparatory School, one third; of the normal schools now established or hereafter to be established, one-third; and of the Agricultural and Mechanical College and the Colored Agricultural Normal University, one-third. The said lands or the proceeds thereof as above apportioned shall be divided between the institutions as the legislature of said State may prescribe: *Provided*, That the said lands so reserved or the proceeds of the sale thereof shall be safely kept or invested and held by said State, and the income thereof, interest, rentals, or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such educational institutions shall remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or the income or rentals thereof, shall be used for the support of any religious or sectarian school, college, or university.

That section thirty-three, and all lands heretofore selected in lieu thereof, heretofore reserved under said proclamation, and Acts for charitable and penal institutions and public buildings, shall be apportioned and disposed of as the legislature of said State may prescribe.

Where any part of the lands granted by this Act to the State of Oklahoma are valuable for minerals, which terms shall also include gas and oil, such lands shall not be sold by the said State prior to January first, nineteen hundred and fifteen; but the same may be leased for periods not exceeding five years by the State officers duly authorized for that purpose, such leasing to be made by public competition after not less than thirty days' advertisement in the manner to be prescribed by law, and all such leasing shall be done under sealed bids and awarded to the highest responsible bidder. The leasing shall require and the advertisement shall specify in each case a fixed royalty to be paid by the successful bidder, in addition to any bonus offered for the lease, and all proceeds from leases shall be covered into the fund to which they shall properly belong, and no transfer or assignment of any lease shall be valid or confer any right in the assignee without the consent of the proper State authorities in writing: *Provided, however*, That agricultural lessees in possession of such lands shall be reimbursed by the mining lessees for all damage done to said agricultural lessees' interest therein by reason of such mining operations. The legislature of the State may

prescribe additional legislation governing such leases not in conflict herewith.

SEC. 9. That said sections sixteen and thirty-six, and lands taken in lieu thereof, herein granted for the support of the common schools, if sold, may be appraised and sold at public sale in one hundred and sixty acre tracts or less, under such rules and regulations as the legislature of the said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of such schools. But said lands may, under such regulations as the legislature may prescribe, be leased for periods not to exceed ten years; and such lands shall not be subject to homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 10. That said sections thirteen and thirty-three, aforesaid, if sold, may be appraised and sold at public sale, in one hundred and sixty acre tracts or less, under such rules and regulations as the legislature of said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, but such lands may be leased for periods of not more than five years, under such rules and regulations as the legislature shall prescribe, and until such time as the legislature shall prescribe such rules these and all other lands granted to the State shall be leased under existing rules and regulations, and shall not be subject to homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for designated purposes only, and until such time as the legislature shall prescribe as aforesaid such lands shall be leased under existing rules: *Provided*, That before any of the said lands shall be sold, as provided in sections nine and ten of this Act, the said lands and the improvements thereon shall be appraised by three disinterested appraisers, who shall be nonresidents of the county wherein the land is situated, to be designated as the legislature of said State shall prescribe, and the said appraisers shall make a true appraisement of said lands at the actual cash value thereof, exclusive of improvements, and shall separately appraise all permanent improvements thereon at their fair and reasonable value, and in case the leaseholder does not become the purchaser, the purchaser at said sale shall, under such rules and regulations as the legislature may prescribe, pay to or for the leaseholder the appraised value of said improvements, and to the State the amount bid for the said lands, exclusive of the appraised value of improvements; and at said sale no bid for any tract at less than the appraisement thereof shall be accepted.

SEC. 11. That an amount equal to five per centum of the proceeds of the sales of public lands lying within said State shall be paid to the said State, to be used as a permanent fund, the interest only of which shall be expended for the support of the common schools within said State.

SEC. 12. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the Act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to said State, and in lieu of any claim or demand of the State of Oklahoma under the Act of September twenty-eighth,

eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands, which grant it is hereby declared is not extended to said State of Oklahoma, the following grant of land is hereby made to said State from public lands of the United States within said State, for the purposes indicated, namely: For the benefit of the Oklahoma University, two hundred and fifty thousand acres; for the benefit of the University Preparatory School, one hundred and fifty thousand acres; for the benefit of the Agricultural and Mechanical College, two hundred and fifty thousand acres; for the benefit of the Colored Agricultural and Normal University, one hundred thousand acres; for the benefit of normal schools, now established or hereafter to be established, three hundred thousand acres. The lands granted by this section shall be selected by the board for leasing school lands of the Territory of Oklahoma immediately upon the approval of this Act. Said selections as soon as made shall be certified to the Secretary of the Interior, and the lands so selected shall be thereupon withdrawn from homestead entry.

SEC. 13. That said State when admitted as aforesaid shall constitute two judicial districts, to be known as the eastern district of Oklahoma and the western district of Oklahoma; the said Indian Territory shall constitute said eastern district, and the said Oklahoma Territory shall constitute said western district. The circuit and district courts for the eastern district shall be held one term at Muscogee, one term at Vinita, one term at Tulsa, one term at South McAlester, one term at Chickasha, and one term at Ardmore, each year, and the circuit and district courts of the western district shall be held one term at Guthrie, one term at Oklahoma City, and one term at Enid, and one term at Lawton, each year, for the time being. And the said districts shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney, and one United States marshal. There shall be appointed a clerk for each of said districts, who shall keep his office at Muscogee and Guthrie, respectively, for the time being. The regular term of said courts shall be held at the places designated in this Act, at Muscogee on the first Monday in January and at Vinita on the first Monday in March and at Tulsa on the first Monday in April; at South McAlester on the first Monday in June; at Ardmore on the first Monday in October; at Chickasha on the first Monday of November; at Guthrie on the first Monday in January; at Oklahoma City on the first Monday in March; at Enid on the first Monday in June, and at Lawton on the first Monday in October, in each year, and one grand jury shall be summoned in each year in each of said circuit and district courts. The circuit and district courts for each of said districts, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerk of each of the circuit and district courts of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully required to be performed by similar officers in other districts of the United States, and shall,

for the services they may perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in other districts of the United States; and that the laws in force in the Territory of Oklahoma, as far as applicable, shall extend over and apply to said State until changed by the legislature thereof.

SEC. 14. That all prosecutions for crimes or offenses hereafter committed in either of said judicial districts as hereby constituted shall be cognizable within the district in which committed, and all prosecutions for crimes or affenses committed before the passage of this Act in which indictments have not yet been found or proceedings instituted shall be cognizable within the judicial district as hereby constituted in which such crimes or offenses were committed.

SEC. 15. That all appeals or writs of error taken from the supreme court of Oklahoma Territory, or the United States court of appeals in the Indian Territory to the Supreme Court of the United States or the United States circuit court of appeals for the eighth circuit, previous to the final admission of such State shall be prosecuted to final determination as though this Act had not been passed. And all cases in which final judgment has been rendered in such Territorial appellate courts which appeals or writs of error might be had except for the admission of such State may still be sued out, taken, and prosecuted to the Supreme Court of the United States or the United States circuit court of appeals under the provisions of existing laws, and there held and determined in like manner, and in either case the Supreme Court of the United States, or the United States circuit court of appeals, in the event of reversal shall remand the said causes to either the State supreme court or other final appellate court of said State, or the United States circuit and district courts of said State, as the case may require: *Provided*, That the time allowed by existing law for appeals and writs of error from appellate courts of said Territories shall not be enlarged hereby, and all appeals and writs of error not sued out from the final judgments of said courts at the time of the admission of such State shall be taken within six months from such time.

SEC. 16. That all causes pending in the supreme and district courts of Oklahoma Territory and in the United States courts and in the United States court of appeals in the Indian Territory arising under the Constitution, laws, or treaties of the United States, or affecting ambassadors, ministers, or consuls of the United States, or of any other country or State, or of admiralty or of maritime jurisdiction, or in which the United States may be a party, or between citizens of the same State claiming lands under grants from different States; and in all cases where there is a controversy between citizens of said Territories prior to admission and citizens of different States, or between citizens of different States, or between a citizen of any State and citizens or subjects of any foreign State or country, and in which cases of diversity of citizenship there shall be more than two thousand dollars in controversy, exclusive of interest and costs, shall be transferred to the proper United States circuit or district court for final disposition: *Provided*, That said transfer shall not be made in any case where the United States is not a party except on application of one of the parties in the court in which the cause is pending, at or before the second term of such court, after the admission of said State, supported by oath, showing that the case is one which may be so trans-

ferred, the proceedings to effect such transfer, except as to time and parties, to be the same as are now provided by law for the removal of causes from a State court to a circuit court of the United States; and in causes transferred from the appellate courts of said Territories the circuit court of the United States in such State shall first determine such appellate matters as the successor of and with all the power of said Territorial appellate courts, and shall thereafter proceed under its original jurisdiction of such causes. All final judgments and decrees rendered in such circuit and district courts in such transferred cases may be reviewed by the Supreme Court of the United States or by the United States circuit court of appeals in the same manner as is now provided by law with reference to existing United States circuit and district courts.

SEC. 17. That all cases pending in the supreme court of said Territory of Oklahoma and in the United States court of appeals in the Indian Territory not transferred to the United States circuit and district courts in said State of Oklahoma shall be proceeded with, held, and determined by the supreme or other final appellate court of such State as the successor of said Territorial supreme court and appellate court, subject to the same right to review upon appeal or error to the Supreme Court of the United States now allowed from the supreme or appellate courts of a State under existing laws. Jurisdiction of all cases pending in the courts of original jurisdiction in said Territories not transferred to the United States circuit and district courts shall devolve upon and be exercised by the courts of original jurisdiction created by said State.

SEC. 18. That the supreme court or other court of last resort of said State shall be deemed to be the successor of said Territorial appellate courts and shall take and possess any and all jurisdiction as such, not herein otherwise specifically provided for, and shall receive and retain the custody of all books, dockets, records, and files not transferred to other courts, as herein provided, subject to the duty to furnish transcripts of all book entries in any specific case transferred to complete the record thereof.

SEC. 19. That the courts of original jurisdiction of such State shall be deemed to be the successor of all courts of original jurisdiction of said Territories and as such shall take and retain custody of all records, dockets, journals, and files of such courts except in causes transferred therefrom, as herein provided; the files and papers in such transferred cases shall be transferred to the proper United States circuit or district court, together with a transcript of all book entries to complete the record in such particular case so transferred.

SEC. 20. That all cases pending in the district courts of Oklahoma Territory and in the United States courts for the Indian Territory at the time said Territories become a State not transferred to the United States circuit or district courts in the State of Oklahoma shall be proceeded with, held, and determined by the courts of said State, the successors of said district courts of the Territory of Oklahoma and United States courts for the Indian Territory, with the right to prosecute appeals or writs of error to the supreme court of said State, and also with the same right to prosecute appeals or writs of error from the final determination in said causes made by the supreme court of said State of Oklahoma to the Supreme Court of the United States, as

now provided by law for appeals and writs of error from the supreme court of a State to the Supreme Court of the United States.

SEC. 21. That the constitutional convention may by ordinance provide for the election of officers for a full State government, including members of the legislature and five Representatives to Congress, and shall constitute the Osage Indian Reservation a separate county, and provide that it shall remain a separate county until the lands in the Osage Indian Reservation are allotted in severalty and until changed by the legislature of Oklahoma, and designate the county seat thereof, and shall provide rules and regulations and define the manner of conducting the first election for officers in said county. Such State government shall remain in abeyance until the State shall be admitted into the Union and the election for State officers held, as provided for in this Act. The State legislature when organized shall elect two Senators of the United States, in the manner now prescribed by the laws of the United States, and the governor and secretary of said State shall certify the election of the Senators and Representatives in the manner required by law; and said Senators and Representatives shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States. And the officers of the State government formed in pursuance of said constitution, as provided by said constitutional convention, shall proceed to exercise all the functions of such State officers; and all laws in force in the Territory of Oklahoma at the time of the admission of said State into the Union shall be in force throughout said State, except as modified or changed by this Act or by the constitution of the State, and the laws of the United States not locally inapplicable shall have the same force and effect within said State as elsewhere within the United States.

SEC. 22. That the constitutional convention provided for herein shall, by ordinance irrevocable, accept the terms and conditions of this Act.

SEC. 23. That the inhabitants of all that part of the area of the United States now constituting the Territories of Arizona and New Mexico, as at present described, may become the State of Arizona, as hereinafter provided.

SEC. 24. That at the general election to be held on the sixth day of November, nineteen hundred and six, all the electors of said Territories, respectively, qualified to vote at such election, are hereby authorized to vote for and choose delegates to form a convention for said Territories. The aforesaid convention shall consist of one hundred and ten delegates, sixty-six of which delegates shall be elected to said convention by the people of the Territory of New Mexico and forty-four by the people of the Territory of Arizona; and the governors, chief justices, and secretaries of each of said Territories, respectively, shall apportion the delegates to be thus elected from their respective Territories, as nearly as may be, equitably among the several counties thereof in accordance with the voting population as shown by the vote cast for Delegate in Congress in the respective Territories in nineteen hundred and four.

That at the said general election and on the same ballots on which the names of candidates to the convention aforesaid are printed, there shall be submitted to said qualified electors of each of said Territories

a question which shall be stated on the ballot in substance and form as follows:

"Shall Arizona and New Mexico be united to form one State?"

☐ Yes. ☐ No.

Electors desiring to vote in the affirmative shall place a cross mark in the square to the left of the word "Yes," and those desiring to vote in the negative shall place a cross mark in the square to the left of the word "No," in the form above prescribed. The governors and secretaries of the respective Territories shall certify and transmit, as soon as may be practicable, the results of said election each to the other and likewise to the Secretary of the Interior, and if it appears from the returns thus certified that a majority of the qualified electors in each of said Territories who voted on the question aforesaid at such election voted in favor of the union of New Mexico and Arizona as one State, then, and not otherwise, the inhabitants of that part of the area of the United States now constituting the Territories of Arizona and New Mexico as at present described may become the State of Arizona as hereinafter provided; but if in either of said Territories a majority of the qualified electors voting on the question aforesaid at such election shall appear by such certified returns to have voted against the union of said Territories then, and in that event, section twenty-three and all succeeding sections of this Act shall thereafter be null and void and of no effect, excepting that the appropriation made in section forty-one hereof shall be and remain available for defraying all and every kind and character of expense incurred on account of the election of delegates to the convention and the submission of the question aforesaid.

The governors of said Territories, respectively, shall, within thirty days after the approval of this Act, by proclamation in which the aforesaid apportionment of delegates to the convention shall be fully specified and announced and the aforesaid question to be voted on by the electors shall be clearly stated, order that the delegates aforesaid in their respective Territories shall be voted for and the question aforesaid shall be submitted to the qualified electors in each of said Territories as herein required at the aforesaid general election. Such election for delegates shall be conducted, the returns made and the certificates of persons elected to such convention issued, as near as may be, in the same manner as is prescribed by the laws of said Territories, respectively, regulating elections therein of members of the legislature: *Provided*, That if it appears from the returns that a majority of the qualified electors in the Territory of Arizona who voted on the question at the election voted in favor of the union of New Mexico and Arizona as one State, then, and not otherwise, the secretary or other proper officer of said Territory of Arizona into whose hands the result of said election finally comes, shall immediately transmit and certify the result as to the election of delegates to the convention to the secretary of the Territory of New Mexico at Santa Fe, and if it appears from the returns from the election held in New Mexico that a majority of the qualified voters aforesaid voted in favor of joint statehood, then in that event the secretary of said Territory of New Mexico shall make up a temporary roll of the convention from the certified returns from both of said Territories, and he shall call the convention to order at the time herein required, and

said convention when so called to order and organized shall be the sole judge of the election and qualifications of its own members. Persons possessing the qualifications entitling them to vote at the aforesaid general election shall be entitled to vote on the ratification or rejection of the constitution if submitted to the people of said Territories hereunder, and on the election of all officials whose election is taking place at the same time, under such rules or regulations as said convention may prescribe, not in conflict with this Act.

SEC. 25. That if a majority in each of said Territories at the election aforesaid shall vote for joint statehood, and not otherwise, the delegates to the convention thus elected shall meet in the hall of the house of representatives of the Territory of New Mexico, in the city of Sante Fe therein, at twelve o'clock noon on Monday, December third, nineteen hundred and six, but they shall not receive compensation for more than sixty days of service, and after organization shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said convention shall be, and is hereby, authorized to form a constitution and State government for said proposed State. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship; and that polygamous or plural marriages and the sale, barter, or giving of intoxicating liquors to Indians are forever prohibited.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes, except as hereinafter provided, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and such Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands and other property belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands and other property are taxed, any lands and other property owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any Act of Congress containing a provision exempting the lands thus granted from taxation, but said ordinance shall provide that all such lands

shall be exempt from taxation by said State so long and to such extent as such Act of Congress may prescribe.

Third. That the debts and liabilities of said Territory of Arizona and of said Territory of New Mexico shall be assumed and paid by said State, and that said State shall be subrogated to all the rights of indemnity and reimbursement which either of said Territories now has.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control; and that said schools shall always be conducted in English: *Provided*, That nothing in this Act shall preclude the teaching of other languages in said public schools.

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude, and that ability to read, write, and speak the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all State officers.

Sixth. That the capital of said State shall temporarily be at the city of Santa Fe, in the present Territory of New Mexico, and shall not be changed therefrom previous to anno Domini nineteen hundred and fifteen, but the permanent location of said capital may, after said year, be fixed by the electors of said State, voting at an election to be provided for by the legislature.

SEC. 26. That in case a constitution and State government shall be formed in compliance with the provisions of this Act, the convention forming the same shall provide by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection, at an election to be held at a time fixed in said ordinance, which shall be not less than sixty days nor more than ninety days from the adjournment of the convention, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution and for or against any provisions thereof separately submitted. The returns of said election shall be made by the election officers direct to the secretary of the Territory of New Mexico at Santa Fe; who, with the governors and chief justices of said Territories, or any four of them, shall meet at said city of Santa Fe on the third Monday after said election and shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution the said canvassing board shall certify the result to the President of the United States, together with the statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said constitution, articles, propositions and ordinances. And if the constitution and government of said proposed State are republican in form, and if the provisions in this Act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within twenty days from the receipt of the certificate of the result of said election and the statement of the votes cast thereon and a copy of said constitution, articles, propositions, and ordinances from said board, to issue his proclamation announcing the result of said election, and thereupon the proposed State shall be deemed admitted by Congress

into the Union, under and by virtue of this Act, under the name of Arizona, on an equal footing with the original States, from and after the date of said proclamation.

The original of said constitution, articles, propositions, and ordinances, and the election returns, and a copy of the statement of the votes cast at said election shall be forwarded and turned over by the secretary of the Territory of New Mexico to the State authorities.

SEC. 27. That until the next general census, or until otherwise provided by law, said State shall be entitled to two Representatives in the House of Representatives of the United States, which Representatives, together with the governor and other officers provided for in said constitution, and also all other State and county officers, shall be elected on the same day of the election for the adoption of the constitution; and until said State officers are elected and qualified under the provisions of the constitution, and the State is admitted into the Union, the Territorial officers of said Territories, respectively, including delegates to Congress, shall continue to discharge the duties of their respective offices in said Territories until their successors are duly elected and qualified.

SEC. 28. That upon the admission of said State into the Union there is hereby granted unto it, including the sections thereof heretofore granted, four sections of public land in each township in the proposed State for the support of free public nonsectarian common schools, to wit: Sections numbered thirteen, sixteen, thirty-three, and thirty-six, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any Act of Congress other lands equivalent thereto, in legal subdivisions of not less than one quarter section and as contiguous as may be to the section in lieu of which the same is taken; such indemnity lands to be selected within said respective portions of said State in the manner provided in this Act: *Provided*, That the thirteenth, sixteenth, thirty-third, and thirty-sixth sections embraced in permanent reservations for national purposes shall not at any time be subject to the grants nor to the indemnity provisions of this Act, but other lands equivalent thereto may be selected for such school purposes in lieu thereof; nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants of this Act, but such reservation lands shall be subject to the indemnity provisions of this Act: *Provided*, That nothing in this Act contained shall repeal or affect any Act of Congress relating to the Casa Grande Ruin as now defined or as may be hereafter defined or extended, or the power of the United States over it, or any other lands embraced in the State hereafter set aside by Congress as a national park, game preserve, or for the preservation of objects of archæological or ethnological interest; and nothing contained in this Act shall interfere with the rights and ownership of the United States in any land hereafter set aside by Congress as national park, game preserve, or other reservation, or in the said Case Grande Ruin as it now is or may be hereafter defined or extended by law, but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said Casa Grande Ruin, or national parks, game preserves, and other reservations hereafter established by law, of civil and criminal processes

lawfully issued by the authority of said State; and said lands shall not be subject at any time to the school grants of this Act that may be embraced within the metes and bounds of the national park, game preserve, and other reservation, or the said Casa Grande Ruin, as now defined or may be hereafter defined; but other lands equivalent thereto may be selected for such school purposes hereinbefore provided in lieu thereof.

SEC. 29. That three hundred sections of the unappropriated nonmineral public lands within said State, to be selected and located in legal subdivisions, as provided in this Act, are hereby granted to said State for the purpose of erecting legislative, executive, and judicial public buildings in the same, and for the payment of the bonds heretofore or hereafter issued therefor.

SEC. 30. That the lands granted to the Territory of Arizona by the Act of February eighteenth, eighteen hundred and eighty-one, entitled "An Act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes," are hereby vested in the proposed State to the extent of the full quantity of seventy-five sections, and any portion of said lands that may not have been selected by said Territory of Arizona may be selected by the said State. In addition to the foregoing, and in addition to all lands heretofore granted for such purpose, there shall be, and hereby is, granted to said State, to take effect when the same is admitted to the Union, three hundred sections of land, to be selected from the public domain within said State in the same manner as provided in this Act, and the proceeds of all such lands shall constitute a permanent fund, to be safely invested and held by said State, and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this Act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 31. That nothing in this Act shall be so construed, except where the same is so specifically stated, as to repeal any grant of land heretofore made by any Act of Congress to either of said Territories, but such grants are hereby ratified and confirmed in and to said State, and all of the land that may not, at the time of the admission of said State into the Union, have been selected and segregated from the public domain, may be so selected and segregated in the manner provided in this Act.

SEC. 32. That five per centum of the proceeds of the sales of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State. And there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of five million dollars for the use and benefit of the common schools of said State. Said appropriation shall be paid by the Treasurer of the United States at such time and to such person or persons as may be authorized by said State to receive the same under laws to be enacted by said State,

and until said State shall enact such laws said appropriation shall not be paid. Said appropriation of five million dollars shall be held inviolable and invested by said State, in trust, for the use and benefit of said schools.

SEC. 33. That all lands herein granted for educational purposes may be appraised and disposed of only at public sale, the proceeds to constitute a permanent school fund, the income from which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislature shall prescribe, be leased for periods of not more than ten years, and such common school land shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 34. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the Act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to the proposed State, and in lieu of any claim or demand by the said State under the Act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to the said State, and in lieu of any grant of saline lands to said State, save as heretofore made, the following grants of land from public lands of the United States within said State are hereby made, to wit:

For the establishment and maintenance and support of insane asylums in the said State, two hundred thousand acres; for penitentiaries, two hundred thousand acres; for schools for the deaf, dumb, and the blind, two hundred thousand acres; for miners' hospitals for disabled miners, one hundred thousand acres; for normal schools, two hundred thousand acres; for State charitable, penal, and reformatory institutions, two hundred thousand acres; for agricultural and mechanical colleges, three hundred thousand acres: *Provided*, That the two national appropriations heretofore annually paid to the two agricultural and mechanical colleges of said Territories, respectively, shall, until the further order of Congress, continue to be paid to said State for the use of said respective institutions; for schools of mines, two hundred thousand acres; for military institutes, two hundred thousand acres.

SEC. 35. That all lands granted in quantity or as indemnity by this Act shall be selected, under the direction of the Secretary of the Interior, from the unappropriated public lands of the United States within the limits of the said State, by a commission composed of the governor, surveyor-general, and attorney-general of said State; and no fees shall be charged for passing the title to the same or for the preliminary proceedings thereof.

SEC. 36. That all mineral lands shall be exempted from the grants made by this Act; but if any portion thereof shall be found by the Department of the Interior to be mineral lands, said State, by the commission provided for in section thirty-five hereof, under the direction of the Secretary of the Interior, is hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said State in lieu thereof.

SEC. 37. That the said State, when admitted as aforesaid, shall constitute two judicial districts, to be named, respectively, the eastern and western districts of Arizona, the boundaries of said districts to be the same as the boundaries of said Territories, respectively, and the circuit and district court of said districts shall be held, respectively, at Albuquerque and Phoenix for the time being, and the said districts shall, for judicial purposes, until otherwise provided, be attached to the ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney, and one United States marshal. The judge of each of said districts shall receive a yearly salary the same as other similar judges of the United States, payable as provided for by law, and shall reside in the district to which he is appointed. There shall be appointed clerks of said courts, who shall keep their offices at said Albuquerque and Phoenix in said State. The regular terms of said courts shall be held in said districts, at the places aforesaid, on the first Monday in April and the first Monday in November of each year, and one grand jury shall be summoned in each year in each of said circuit and district courts. The circuit and district courts for said districts, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district courts of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in the Territories of Arizona and New Mexico, respectively.

SEC. 38. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of either of said Territories, or that may hereafter lawfully be prosecuted upon any record from said courts, may be heard and determined by said Supreme Court of the United States. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district courts, respectively, hereby established within the said State or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and State courts herein named shall, respectively, be the successors of the supreme courts of the said Territories as to all such cases arising within the limits or embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same and award mesne or final process therein; and that from all judgments and decrees of the supreme courts of the said Territories mentioned in this Act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States or to the circuit court of appeals as they shall have had by law prior to the admission of said State into the Union.

SEC. 39. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of the said Territories at the time of the admission into the Union of the said State, and arising within the limits of such State, whereof the circuit or district courts by this Act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said Territories, respectively; and in respect to all other cases, proceedings, and matters pending in the supreme or district courts of the said Territories at the time of the admission of such Territories into the Union, arising within the limits of said State, the courts established by such State shall, respectively, be the successors of said supreme and district Territorial courts; and all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district, and State courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the State shall be pending, in any Territorial court in said Teritories shall abate by the admission of such State into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district, or State court, as the case may be: *Provided*, *however*, That in all civil actions, causes, and proceedings in which the United States is not a party transfers shall not be made to the circuit and district courts of the United States except upon cause shown by written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper State courts.

SEC. 40. That the constitutional convention shall by ordinance provide for the election of officers for a full State government, including members of the legislature and two Representatives in Congress, at the time for the election for the ratification or rejection of the constitution; one of which Representatives shall be chosen from a Congressional district comprised of the present Territory of Arizona, to be known as the First Congressional district, and the other from a Congressional district comprised of the remainder of said State, to be known as the Second Congressional district; but the said State government shall remain in abeyance until the State shall be admitted into the Union as proposed by this Act. In case the constitution of said State shall be ratified by a majority of the qualified voters of said Territories voting at the election held therefor as hereinbefore provided, but not otherwise, the legislature thereof may assemble at Santa Fe, organize, and elect two Senators of the United States in the manner now prescribed by the laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and Representatives in the manner required by law, and when such State is admitted into the Union, as provided in this Act, the Senators and Representatives shall be entitled to be admitted to seats in Congress and to all rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the officers of the State government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of State officers; and all laws of

said Territories in force at the time of their admission into the Union shall be in force in the respective portions of said State until changed by the legislature of said State, except as modified or changed by this Act or by the constitution of the State; and the laws of the United States shall have the same force and effect within the said States as elsewhere within the United States.

SEC. 41. That the sum of one hundred and fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying all and every kind and character of expense incident to the elections and conventions provided for in this Act; that is, the payment of the expenses of holding the election for members of the constitutional convention and the submission of the question of joint statehood and the election for the ratification of the constitution, at the same rates that are paid for similar services under the Territorial laws, respectively, and for the payment of the mileage for and salaries of members of the constitutional convention at the same rates that are paid the said Territorial legislatures under national law, and for the payment of all proper and necessary expenses, officers, clerks, and messengers thereof, and printing and other expenses incident thereto: *Provided*, That any expense incurred in excess of said sum of one hundred and fifty thousand dollars shall be paid by said State. The said money shall be expended under the direction of the Secretary of the Interior, and shall be forwarded, to be locally expended in the present Territory of Arizona and in the present Territory of New Mexico, through the respective secretaries of said Territories, as may be necessary and proper, in the discretion of the Secretary of the Interior, in order to carry out the full intent and meaning of this Act.

Approved, June 16, 1906.

NOTE.—For the constitution of Oklahoma of 1907, and the proclamation of the President admitting the State into the Union, see Volume VII, p. 4269 *et seq.*

The State was admitted November 16, 1907; the present work was completed and printed, as certified by the Public Printer, September 9, 1907.—ED.

OREGON

CONVENTION WITH GREAT BRITAIN—1818 [a]

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Article III

It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present convention to the vessels, citizens, and subjects of the two powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other power or State to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences among themselves.[b]

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CONVENTION WITH RUSSIA—1824 [c]

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Article I

It is agreed that, in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of

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[a] This convention, which made provision for the joint occupation of what is now the State of Oregon by the United States and Great Britain, was concluded at London October 20, 1818, and ratifications were exchanged January 19, 1819.

[b] By a convention concluded August 6, 1827, the provisions of this article were "indefinitely extended and continued in force," with a proviso that either of the contracting parties should have the right, on giving twelve months' notice to the other contracting party, to annul and abrogate the agreement.

A joint resolution, approved April 27, 1846, authorized the President to give the requisite notice for the abrogation of the joint occupation, that the Oregon Territory might "no longer than need be remain subject to the evil consequences of the divided allegiance of its American and British population, and of the confusion and conflict of national jurisdictions, dangerous to the cherished peace and good understanding of the two countries;" "and that the attention of the governments of both countries be the more earnestly directed to the adoption of all proper measures for a speedy and amicable adjustment of the differences and disputes in regard to the said territory."

[c] This convention, which made provision for regulating fishing and trading on the Pacific coast, fixed the line 54° 40′ as the northern boundary claimed by the United States. It was concluded at St. Petersburg April 5–17, 1824, ratified and proclaimed January 12, 1825.

the high contracting Powers shall be neither disturbed nor restrained, either in navigation or fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

Article II

With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the high contracting Powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

Article III

It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the Northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

Article IV

It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

Article V

All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding article; and the two Powers engage, reciprocally, neither to sell, nor suffer them to be sold, to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandize, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce; the high contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this article by their respective citizens or subjects.

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TREATY WITH GREAT BRITAIN—1846 [a]

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, deeming it to be desirable for the future welfare of both countries that the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two parties over the said territory, have respectively named plenipotentiaries to treat and agree concerning the terms of such settlement, that is to say:

The President of the United States of America has, on his part, furnished with full powers James Buchanan, Secretary of State of the United States, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on her part, appointed the Right Honorable Richard Pakenham, a member of Her Majesty's Most Honorable Privy Council, and Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

Article I

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: *Provided, however*, That the navigation of the whole of the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both parties.

Article II

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall, in like manner, be free and open. In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this article shall be construed as

[a] This treaty was concluded at Washington June 15, 1846, ratifications were exchanged July 17, 1846, and it was proclaimed August 5, 1846.

preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present treaty.

ARTICLE III

In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

ARTICLE IV

The farms, lands, and other property of every description belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia River, shall be confirmed to the said company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States Government should signify a desire to obtain possession of the whole, or of any part thereof, the property so required shall be transferred to the said Government, at a proper valuation, to be agreed upon between the parties.

ARTICLE V

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at London, at the expiration of six months from the date hereof, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington the fifteenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

JAMES BUCHANAN. [L. S.]
RICHARD PAKENHAM. [L. S.]

THE TERRITORIAL GOVERNMENT OF OREGON—1848 [a]

[THIRTIETH CONGRESS, FIRST SESSION]

An Act to establish the territorial government of Oregon

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, all that part of the Territory of the United States which lies west of the summit of the Rocky Mountains,

[a] See also the acts to authorize extension of session of legislature, July 18, 1850; and to fix the seat of government, May 4, 1852.

A provisional government was established in Oregon in 1841, by the emigrants from the United States, and a constitution was adopted July 5, 1843, which was recognized. General Joseph Lane, the first territorial governor, arrived, and, by proclamation, put the territorial government into operation March 3, 1849.

north of the forty-second degree of north latitude, known as the Territory of Oregon, shall be organized into and constitute a temporary government, by the name of the Territory of Oregon: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the Government to make if this act had never passed: *And provided also*, That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong: *And provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing the said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Oregon shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs; he may grant pardons and respites for offences against the laws of said Territory, and reprieve for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, where, by law, such commissions shall be required, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue three years. Immediately after they shall be assembled, in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the members of council of the first class shall be vacated at the expiration of the first year; of the second class, at the expiration of the second year; and of the third class, at the expiration of the third year, so that one-third may be chosen every year; and if vacancies happen by resignation or otherwise, the same shall be filled at the next ensuing election. The house of representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters, as nearly as may be. And the members of the council and of the house of representatives shall reside in and be inhabitants of the district, or county or counties, for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons, and in such mode, as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor; and the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election, and the returns thereof, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act; and the governor shall, by his proclamation, give at least sixty days' previous notice of such apportionment, and of the time, places, and manner of holding such election. The persons having the highest number of legal votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place, and on such day, within ninety days after such elections, as the governor shall appoint; but, thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by

law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of sixty days, except the first session, which shall not be prolonged beyond one hundred days.

SEC. 5. *And be it further enacted*, That every white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and those above that age who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the Army or Navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote in said Territory, by reason of being on service therein, unless said Territory is and has been for the period of six months his permanent domicile: *Provided further*, That no person belonging to the Army or Navy of the United States shall ever be elected to or hold any civil office or appointment in said Territory.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly shall be submitted to the Congress of the United States, and if disapproved, shall be null and of no effect: *Provided*, That nothing in this act shall be construed to give power to incorporate a bank, or any institution with banking powers, or to borrow money in the name of the Territory, or to pledge the faith of the people of the same for any loan whatever, either directly or indirectly. No charter granting any privilege of making, issuing, or putting into circulation any notes or bills in the likeness of bank-notes, or any bonds, scrip, drafts, bills of exchange or obligations, or granting any other banking powers or privileges, shall be passed by the legislative assembly; nor shall the establishment of any branch or agency of any such corporation, derived from other authority, be allowed in said Territory; nor shall said legislative assembly authorize the issue of any obligation, scrip, or evidence of debt by said Territory, in any mode or manner whatever, except certificates for services to said Territory; and all such laws, or any law or laws inconsistent with the provisions of this act, shall be utterly null and void; and all taxes shall be equal and uniform, and no distinction shall be made in the assessments between different kinds of property, but the assessments shall be according to the value thereof. To avoid improper influences which may result from intermixing in one and the same act such things as

have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected in such manner as shall be provided by the legislative assembly of the Territory of Oregon.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly; and no person holding a commission or appointment under the United States shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any case in which the title to land shall in any wise come in question, or where the debt or damages claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed two thousand dollars, and in all cases where the Constitution of the United States, or acts of Congress, or a treaty of the United States, is brought in question; and each of the

said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution of the United States and the laws of said Territory, as is vested in the circuit and district courts of the United States; writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner as from the circuit courts of the United States, where the value of the property or the amount in controversy shall exceed two thousand dollars; and each of said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States, and also of all cases arising under the laws of the said Territory and otherwise. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of the late Wisconsin Territory received for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as were provided by law for the attorney of the United States for the late Territory of Wisconsin. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees, as were provided by law for the marshal of the district court of the United States for the present [late] Territory of Wisconsin; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified; which said oath or affirmation shall be certified and transmitted by the person taking

the same to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and fifteen hundred dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of two thousand dollars. The secretary shall receive an annual salary of fifteen hundred dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars each for every twenty miles' travel in going to and returning from said sessions, estimated according to the nearest usually travelled route. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive five dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly, but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislature annually, unless, on an extraordinary occasion, the governor shall think proper to call the legislature together. There shall be appropriated annually the sum of fifteen hundred dollars, to be expended by the governor to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department; and there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid [sum] moneys shall have been expended; and no expenditure, to be paid out of money appropriated by Congress, shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

Sec. 12. *And be it further enacted*, That the rivers and streams of water in said Territory of Oregon in which salmon are found, or to which they resort, shall not be obstructed by dams or otherwise, unless such dams or obstructions are so constructed as to allow salmon to pass freely up and down such rivers and streams.

Sec. 13. *And be it further enacted*, That the sum of ten thousand dollars be, and is hereby, appropriated, to be expended under the direction of the President of the United States, in payment for the services and expenses of such persons as have been engaged by the provisional government of Oregon in conveying communications to and from the United States, and the purchase of presents for such of the Indian tribes as the peace and quietude of the country requires.

Sec. 14. *And be it further enacted*, That the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, priv-

ileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty-seven; and shall be subject to all the conditions, and restrictions, and prohibitions in said articles of compact imposed upon the people of said territory; and the existing laws now in force in the Territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the Constitution of the United States, and the principles and provisions of this act; subject, nevertheless, to be altered, modified, or repealed by the legislative assembly of the said Territory of Oregon; but all laws heretofore passed in said Territory making grants of land, or otherwise affecting or incumbering the title to lands, shall be, and are hereby declared to be, null and void; and the laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

Sec. 15. *And be it further enacted*, That the legislative assembly of the Territory of Oregon shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by said legislative assembly. And the sum of five thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Oregon, to be there applied, by the governor, to the erection of suitable buildings at the seat of government.

Sec. 16. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as have been heretofore exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives; but the Delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; of which, and the time, place, and manner of holding such elections, he shall give at least sixty days' notice by proclamation; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. The Delegate from said Territory shall not be entitled to receive more than twenty-five hundred dollars at any one session of Congress, as a compensation for his mileage, in going to and returning from the seat of government of the United States, any act of Congress to the contrary notwithstanding.

SEC. 17. *And be it further enacted*, That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts established by authority of the provisional government of Oregon, within the limits of said Territory, when this act shall take effect, shall be transferred to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the counties or districts where any such proceeding may be pending. All bonds, recognizances, and obligations of every kind whatsoever, valid under the existing laws within the limits of said Territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits may be prosecuted, tried, and punished in the courts established by this act; and all penalties, forfeitures, actions, and causes of action, may be recovered under this act in like manner as they would have been under the laws in force within the limits composing said Territory at the time this act shall go into operation: *Provided*, That the laws, penalties, and forfeitures, and punishments, by this section required to be enforced by the courts provided for by this act, shall not be inconsistent with the Constitution of the United States: *And provided further*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the temporary government, and which may be declared contrary to the Constitution of the United States.

SEC. 18. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said Territory when this act shall take effect, shall be, and they are hereby, authorized and required to contnue to exercise and perform the duties of their respective offices as officers of the Territory of Oregon until they or others shall be duly elected or appointed, and qualified to fill their places in the manner herein directed, or until their offices shall be abolished.

SEC. 19. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended, by and under the direction of the said governor of the Territory of Oregon, in the purchase of a library, to be kept at the seat of government, for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 20. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same is hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 21. *And be it further enacted*, That until otherwise provided for by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint

the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the time and places of holding the courts, as to them shall seem proper and convenient.

SEC. 22. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Oregon, who by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security, at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 23. *And be it further enacted*, That all the ports, harbors, shores, and waters of the main-land of the Territory aforesaid shall constitute a collection district, to be called the district of Oregon; and a port of entry shall be established at Astoria, near the mouth of the Columbia River, and a collector of customs shall be appointed by the President, by and with the advice and consent of the Senate, to reside at such port of entry.

SEC. 24. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to establish such ports of delivery in the district created by this act, not exceeding two in number, (one of which shall be located on *Puget's* Sound,) as he may deem expedient, and may appoint, by and with the advice and consent of the Senate, surveyors to reside thereat.

SEC. 25. *And be it further enacted*, That the collector of said district shall be allowed a compensation of one thousand dollars per annum and the fees allowed by law; and the compensation of any surveyor appointed in pursuance of this act shall not exceed five hundred dollars per annum, including in said sum the fees allowed by law; and the amount collected by any of said surveyors, for fees in any one year, exceeding the sum of five hundred dollars, shall be accounted for and paid into the Treasury of the United States.

SEC. 26. *And be it further enacted*, That the revenue-laws of the United States be, and are hereby, extended over the Territory of Oregon.

SEC. 27. *And be it further enacted*, That the sum of fifteen thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury, for the construction of light-houses at Cape Disappointment and New Dunginess; and for the construction and anchoring of the requisite number of buoys, to indicate the channels at the mouth of the Columbia River, and the approaches to the harbor of Astoria; the said buoys to be placed and anchored under the direction of such persons as the Secretary of the Treasury shall appoint.

Approved, August 14, 1848.

ADMISSION OF THE STATE OF OREGON—1859

[THIRTY-FIFTH CONGRESS, SECOND SESSION]

An Act for the Admission of Oregon into the Union

Whereas the people of Oregon have framed, ratified, and adopted a constitution of State government which is republican in form, and in conformity with the Constitution of the United States, and have applied for admission into the Union on an equal footing with the other States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Oregon be, and she is hereby, received into the Union on an equal footing with the other States in all respects whatever, with the following boundaries: In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship-channel of the Columbia River; thence easterly, to and up the middle channel of said river, and, where it is divided by islands, up the middle of the widest channel thereof, to a point near Fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east on said parallel to the middle of the main channel of the Shoshones or Snake River; thence up the middle of the main channel of said river to the mouth of the Owyhee River; thence due south to the parallel of latitude forty-two degrees north; thence west along said parallel to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia River and Snake River, concurrently with States and Territories of which those rivers form a boundary in common with this State.

SEC. 2. *And be it further enacted*, That the said State of Oregon shall have concurrent jurisdiction on the Columbia and all other rivers and waters bordering on the said State of Oregon so far as the same shall form a common boundary to said State, and any other State or States now or hereafter to be formed or bounded by the same; and said rivers and waters, and all the navigable waters of said State, shall be common highways and forever free, as well *as* to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

SEC. 3. *And be it further enacted*, That until the next census and apportionment of Representatives, the State of Oregon shall be entitled to one Representative in the Congress of the United States.

SEC. 4. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said people of Oregon for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Oregon, to wit:

First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the governor of said State, subject to the approval of the Commissioner of the General Land-Office, and to be appropriated and applied in such manner as the legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. Third, That ten entire sections of land, to be selected by the governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof. Fourth, That all salt-springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the same to be selected by the governor thereof within one year[a] after the admission of said State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the legislature shall direct: *Provided*, That no salt-spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. Fifth, That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements, as the legislature shall direct: *Provided*, That the foregoing propositions, hereinbefore offered, are on the condition that the people of Oregon shall provide by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof; and that in no case shall non-resident proprietors be taxed higher than residents. Sixth, And that the said State shall never tax the lands or the property of the United States in said State: *Provided, however*, That in case any of the lands herein granted to the State of Oregon have heretofore been confirmed to the Territory of Oregon for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act.

SEC. 5. *And be it further enacted*, That, until Congress shall otherwise direct, the residue of the Territory of Oregon shall be, and is hereby, incorporated into and made a part of the Territory of Washington.

Approved, February 14, 1859.

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[a] This term was extended from one to three years by the act approved December 17, 1860.

CONSTITUTION OF OREGON—1857 * [a]

We, the people of the State of Oregon, to the end that justice be established, or maintained, and liberty perpetuated, do ordain this constitution.

ARTICLE I

BILL OF RIGHTS

SECTION 1. We declare that all men, when they form a social compact, are equal in rights; that all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.

SEC. 2. All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

SEC. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

SEC. 4. No religious test shall be required as a qualification for any office of trust or profit.

SEC. 5. No money shall be drawn from the treasury for the benefit of any religious or theological institution, nor shall any money be appropriated for the payment of any religious service, in either house of the legislative assembly.

SEC. 6. No person shall be rendered incompetent as a witness or juror in consequence of his opinions on matters of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony.

SEC. 7. The mode of administering an oath or affirmation shall be such as may be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

SEC. 8. No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever, but every person shall be responsible for the abuse of this right.

SEC. 9. No law shall violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search or seizure; and no warrant shall issue but upon probably cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

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* "Journal of the Constitutional Convention of the State of Oregon, held at Salem, commencing August 17, 1857, together with the Constitution adopted by the people, November 9, 1857. Published by authority. Salem, Oregon: W. H. Byars, State Printer. 1882." 130 pp.

The Debates in this Convention of Oregon 1857 were reported in "The Morning Oregonian," Portland, Oregon. Vol. vii, nos. 39–46, inclusive.

The later amendments from reprint of same furnished by the Secretary of State of Oregon, March 29, 1907. Editor.

[a] This constitution was framed by a convention, chosen under a territorial act, (no "enabling act" having been passed by Congress,) which assembled at Salem August 17, 1857, and completed its labors September 18, 1857. It was submitted to the people November 9, 1857, and ratified by 7,195 votes against 3,195 votes.

SEC. 10. No court shall be secret, but justice shall be administered openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation.

SEC. 11. In all criminal prosecutions the accused shall have the right to public trial by an impartial jury in the county in which the offence shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

SEC. 12. No person shall be put in jeopardy twice for the same offence, nor be compelled in any criminal prosecution to testify against himself.

SEC. 13. No person arrested or confined in jail shall be treated with unnecessary rigor.

SEC. 14. Offenses, except murder and treason, shall be bailable by sufficient sureties. Murder and treason shall not be bailable where the proof is evident or the presumption strong.

SEC. 15. Laws for the punishment of crime shall be founded on the principles of reformation, and not of vindictive justice.

SEC. 16. Excessive bail shall not be required, nor excessive fines imposed. Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offence.

SEC. 17. In all criminal cases whatever the jury shall have the right to determine the law and the facts, under the direction of the court as to the law, and the right of new trial, as in civil cases.

SEC. 18. In all civil cases the right of trial by jury shall remain inviolate.

SEC. 19. Private property shall not be taken for public use, nor the particular services of any man be demanded without just compensation, nor, except in the case of the State, without such compensation first assessed and tendered.

SEC. 20. There shall be no imprisonment for debt, except in case of fraud or absconding debtors.

SEC. 21. No law shall be passed granting to any citizen or class of citizens privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 22. No *ex post facto* law, or law impairing the obligations of contracts, shall ever be passed, nor shall any law be passed the taking effect of which shall be made to depend upon any authority except as provided in this constitution: *Provided*, That laws locating the capital of the State, locating county-seats, and submitting town and city corporate acts and other local and special laws may take effect or not, upon a vote of the electors interested.

SEC. 23. The operation of the laws shall never be suspended except by the authority of the legislative assembly.

SEC. 24. The privilege of the writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety require it.

SEC. 25. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

SEC. 26. No conviction shall work corruption of blood or forfeiture of estate.

SEC. 27. No law shall be passed restraining any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good, nor for instructing their representatives, nor from applying to the legislature for redress of grievances.

SEC. 28. The people shall have the right to bear arms for the defence of themselves and the State, but the military shall be kept in strict subordination to the civil power.

SEC. 29. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in manner prescribed by law.

SEC. 30. No law shall be passed granting any title of nobility or conferring hereditary distinction.

SEC. 31. No law shall be passed prohibiting emigration from the State.

SEC. 32. White foreigners, who are or may hereafter become residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens. And the legislative assembly shall have power to restrain and regulate the immigration to this State of persons not qualified to become citizens of the United States.

SEC. 33. No tax or duty shall be imposed without the consent of the people or their representatives in the legislative assembly, and all taxation shall be equal and uniform.

SEC. 34. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

SEC. 35. There shall be neither slavery nor involuntary servitude in the State, otherwise than as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 36. No free negro or mulatto, not residing in this State at the time of the adoption of this Constitution, shall come, reside or be within this State, or hold any real estate, or make any contracts, or maintain any suit therein; and the Legislative Assembly shall provide by penal laws for the removal by public officers of all such negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them.

ARTICLE II

SUFFRAGE AND ELECTIONS

SECTION 1. All elections shall be free and equal.

SEC. 2. In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election, and every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of

naturalization, shall be entitled to vote at all elections authorized by law.

SEC. 3. No idiot or insane person shall be entitled to the privileges of an elector; and the privilege of an elector shall be forfeited by a conviction of any crime which is punishable by imprisonment in the penitentiary.

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or on the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

SEC. 5. No soldier, seaman, or marine in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of having been stationed within the same, nor shall any such soldier, seaman, or marine have the right to vote.

SEC. 6. No negro, Chinaman, or mulatto shall have the right of suffrage.

SEC. 7. Every person shall be disqualified from holding office, during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward, to procure his election.

SEC. 8. The legislative assembly shall enact laws to support the privilege of free suffrage, prescribing the manner of regulating and conducting elections, and prohibiting, under adequate penalties, all undue influence therein from power, bribery, tumult, and other improper conduct.

SEC. 9. Every person who shall give or accept a challenge to fight a duel, or shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 10. No person holding a lucrative office or appointment under the United States, or under this State, shall be eligible to a seat in the legislative assembly; nor shall any person hold more than one lucrative office at the same time, except as in this constitution expressly permitted: *Provided*, That officers in the militia, to which there is attached no annual salary, and the office of postmaster, where the compensation does not exceed one hundred dollars per annum, shall not be deemed lucrative.

SEC. 11. No person who may hereafter be a collector or holder of public money shall be eligible to any office of trust or profit until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

[a] SEC. 12. In all cases, except treason, felony, and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same; and no elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

[b] SEC. 13. In all cases in which it is provided that an office shall not be filled by any person more than a certain number of years continu-

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[a] This section is numbered 13 in the original.
[b] This section is numbered 12 in the original.

ously, an appointment *pro tempore* shall not be reckoned a part of that term.

SEC. 14. General elections shall be held on the first Monday of June biennally.

SEC. 15. In all elections by the legislative assembly, or by either branch thereof, votes shall be given openly, or *viva voce*, and not by ballot, forever; and in all elections by the people, votes shall be given openly, or *viva voce*, until the legislative assembly shall otherwise direct.

SEC. 16. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of votes shall be declared duly elected.

SEC. 17. All qualified electors shall vote in the election precinct in the county where they may reside for county officers, and in any county of the State for State officers, or in any county of a congressional district in which such electors may reside for members of Congress.

ARTICLE III

DISTRIBUTION OF POWERS

The powers of the government shall be divided into three separate departments, the legislative, the executive, (including the administrative,) and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

ARTICLE IV

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative authority of the State shall be vested in the legislative assembly, which shall consist of a senate and house of representatives. The style of every bill shall be, "*Be it enacted by the legislative assembly of the State of Oregon;*" and no law shall be enacted except by bill.

SEC. 2. The senate shall consist of sixteen and the house of representatives of thirty-four members, which number shall not be increased until the year eighteen hundred and sixty; after which time the legislative assembly may increase the number of senators and representatives, always keeping as near as may be the same ratio as to the number of senators and representatives: *Provided*, That the senate shall never exceed thirty and the house of representatives sixty members.

SEC. 3. The senators and representatives shall be chosen by the electors of the respective counties or districts into which the State may, from time to time, be divided by law.

SEC. 4. The senators shall be elected for the term of four years, and representatives for the term of two years, from the day next after their general election: *Provided, however*, That the senators-elect at the first session of the legislative assembly under this constitution shall be divided by lot into two equal classes, as nearly as may be, and the seats of senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expira-

tion of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of the increase of the number of senators, they shall be so annexed by lot to one or the other of the two classes as to keep them as nearly equal as possible.

SEC. 5. The legislative assembly shall, in the year eighteen hundred and sixty-five, and every ten years after, cause an enumeration to be made of all the white population of the State.

SEC. 6. The number of senators and representatives shall, at the session next following an enumeration of the inhabitants by the United States, or this State, be fixed by law, and apportioned among the several counties according to the number of white population in each. And the ratio of senators and representatives shall be determined by dividing the whole number of white population of such county or district, by such respective ratios; and when a fraction shall result from such division, which shall exceed one-half of said ratio, such county or district shall be entitled to a member for such fraction. And in case any county shall not have the requisite population to entitle such county to a member, then such county shall be attached to some adjoining county for senatorial or representative purposes.

SEC. 7. A senatorial district, when more than one county shall constitute the same, shall be composed of contiguous counties; and no county shall be divided in creating senatorial districts.

SEC. 8. No person shall be a senator or representative who, at the time of his election, is not a citizen of the United States; nor any one who has not been, for one year next preceding his election, an inhabitant of the county or district whence he may be chosen. Senators and representatives shall be at least twenty-one years of age.

SEC. 9. Senators and representatives in all cases, except for treason, felony, or breaches of the peace, shall be privileged from arrest during the session of the legislative assembly, and in going to and returning from the same, and shall not be subject to any civil process during the session of the legislative assembly, nor during the thirteen days next before the commencement thereof. Nor shall a member, for words uttered in debate in either house, be questioned in any other place.

SEC. 10. The sessions of the legislative assembly shall be held biennially at the capital of the State, commencing on the second Monday of September, in the year eighteen hundred and fifty-eight, and on the same day of every second year thereafter, unless a different day shall have been appointed by law.

SEC. 11. Each house, when assembled, shall choose its own officers; judge of the election, qualifications, and returns of its own members; determine its own rules of proceeding, and sit upon its own adjournments; but neither house shall, without the concurrence of the other, adjourn for more than three days, nor to any other place than that in which it may be sitting.

SEC. 12. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either house fail to effect an organization within the first five days thereafter, the members of the house so failing shall

be entitled to no compensation from the end of the said five days until an organization shall have been effected.

SEC. 13. Each house shall keep a journal of its proceedings. The yeas and nays on any question shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal: *Provided*, That, on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

SEC. 14. The doors of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of either house, may require secrecy.

SEC. 15. Either house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 16. Either house during its session may punish by imprisonment any person not a member who shall have been guilty of disrespect to the house by disorderly or contemptuous behavior in its presence; but such imprisonment shall not at any time exceed twenty-four hours.

SEC. 17. Each house shall have all powers necessary for a branch of the legislative department of a free and independent State.

SEC. 18. Bills may originate in either house, but may be amended or rejected in the other, except that bills for raising the revenue shall originate in the house of representatives.

SEC. 19. Every bill shall be read by sections, on three several days, in each house, unless, in case of emergency, two-thirds of the house where such bill may be depending shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with, and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 20. Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 21. Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

SEC. 22. No act shall ever be revised or amended by mere reference to its title; but the act revised or section amended shall be set forth and published at full length.

SEC. 23. The legislative assembly shall not pass special or local laws in any of the following-enumerated cases; that is to say—

Regulating the jurisdiction and duties of justices of the peace and of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying, opening, and working on highways, and for the election or appointment of supervisors;

Vacating roads, town-plats, streets, alleys, and public squares;

Summoning and impaneling grand and petit jurors;

For the assessment and collection of taxes for State, county, township, or road purposes;

Providing for supporting common schools, and for the preservation of school-funds;

In relation to interest on money;

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

SEC. 24. Provisions may be made by general law for bringing suit against the State as to all liabilities originating after or existing at the time of the adoption of this constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

SEC. 25. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution; and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective houses.

SEC. 26. Any member of either house shall have the right to protest, and have his protest, with his reasons for dissent, entered on the journal.

SEC. 27. Every statute shall be a public law, unless otherwise declared in the statute itself.

SEC. 28. No act shall take effect until ninety days from the end of the session at which the same shall have been passed, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law.

SEC. 29. The members of the legislative assembly shall receive for their services a sum not exceeding three dollars a day from the commencement of the session; but such pay shall not exceed in the aggregate one hundred and twenty dollars for per-diem allowance for any one session.

When convened in extra session by the governor, they shall receive three dollars per day; but no extra session shall continue for a longer period than twenty days. They shall also receive the sum of three dollars for every twenty miles they shall travel in going to and returning from their place of meeting on the most usual route. The presiding officers of the assembly shall, in virtue of their office, receive an additional compensation equal to two-thirds of their per-diem allowance as members.

SEC. 30. No senator or representative shall, during the time for which he may have been elected, be eligible to any office the election to which is vested in the legislative assembly, nor shall be appointed to any civil office of profit which shall have been created, or the emoluments of which shall have been increased, during such term; but this latter provision shall not be construed to apply to any officer elective by the people.

SEC. 31. The members of the legislative assembly shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States and the constitution of the State of Oregon, and that I will faithfully discharge the duties of senator [or representative, as the

case may be] according to the best of my ability." And such oath may be administered by the governor, secretary of state, or a judge of the supreme court.

Article V

EXECUTIVE DEPARTMENT

Section 1. The chief executive power of the State shall be vested in a governor, who shall hold his office for the term of four years; and no person shall be eligible to such office more than eight in any period of twelve years.

Sec. 2. No person except a citizen of the United States shall be eligible to the office of governor nor shall any person be eligible to that office who shall not have attained the age of thirty years, and who shall not have been three years next preceding his election a resident within this State.

Sec. 3. No member of Congress, or person holding any office under the United States, or under this State, or under any other power, shall fill the office of governor except as may be otherwise provided in this constitution.

Sec. 4. The governor shall be elected by the qualified electors of the State at the times and places of choosing members of the legislative assembly; and the returns of every election for governor shall be sealed up and transmitted to the secretary of state, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the legislative assembly.

Sec. 5. The person having the highest number of votes for governor shall be elected; but in case two or more persons shall have an equal and the highest number of votes for governor, the two houses of the legislative assembly, at the next regular session thereof, shall forthwith, by joint vote, proceed to elect one of the said persons governor.

Sec. 6. Contested elections for governor shall be determined by the legislative assembly in such manner as may be prescribed by law.

Sec. 7. The official term of the governor shall be four years, and shall commence at such times as may be provided by this constitution, or prescribed by law.

Sec. 8. In case of the removal of the governor from office, or of his death, resignation, or inability to discharge the duties of the office, the same shall devolve on the secretary of state; and in case of the removal from office, death, resignation, or inability both of the governor and secretary of state, the president of the senate shall act as governor until the disability be removed or a governor be elected.

Sec. 9. The governor shall be commander-in-chief of the military and naval forces of this State, and may call out such forces to execute the laws, to suppress insurrection, or to repel invasion.

Sec. 10. He shall take care that the laws be faithfully executed.

Sec. 11. He shall, from time to time, give to the legislative assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

Sec. 12. He may, on extraordinary occasions, convene the legislative assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

Sec. 13. He shall transact all necessary business with the officers of government, and may require information in writing from the officers

of the administrative and military departments upon any subject relating to the duties of their respective offices.

Sec. 14. He shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences except treason, subject to such regulations as may be provided by law. Upon conviction for treason he shall have power to suspend the execution of the sentence until the case shall be reported to the legislative assembly at its next meeting, when the legislative assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the legislative assembly at its next meeting each case of reprieve, commutation, or pardon granted, and the reasons for granting the same; and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

Sec. 15. Every bill which shall have passed the legislative assembly shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, which house shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days, Sunday excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return; in which case it shall be a law, unless the governor, within five days next after the adjournment, Sundays excepted, shall file such bill, with his objections thereto, in the office of the secretary of state, who shall lay the same before the legislative assembly at its next session, in like manner as if it had been returned by the governor.

Sec. 16. When, during a recess of the legislative assembly, a vacancy shall happen in any office the appointment to which is vested in the legislative assembly, or when at any time a vacancy shall have occurred in any other State office, or in the office of judge of any court, the governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

Sec. 17. He shall issue writs of election to fill such vacancies as may have occurred in the legislative assembly.

Sec. 18. All commissions shall issue in the name of the State, shall be signed by the governor, sealed with the seal of the State, and attested by the secretary of state.

Article VI

ADMINISTRATIVE DEPARTMENT

Section 1. There shall be elected by the qualified electors of the State, at the times and places of choosing members of the legislative

assembly, a secretary and treasurer of state, who shall severally hold their offices for the term of four years; but no person shall be eligible to either of said offices more than eight in any period of twelve years.

SEC. 2. The secretary of state shall keep a fair record of the official acts of the legislative assembly and executive department of the State, and shall, when required, lay the same and all matters relative thereto before either branch of the legislative assembly. He shall be, by virtue of his office, auditor of public accounts, and shall perform such other duties as shall be assigned him by law.

SEC. 3. There shall be a seal of state, kept by the secretary of state, for official purposes, which shall be called "The Seal of the State of Oregon."

SEC. 4. The power and duties of the treasurer of state shall be such as may be prescribed by law.

SEC. 5. The governor and the secretary and treasurer of state shall severally keep the public records, books, and papers, in any manner relating to their respective offices, at the seat of government, at which place also the secretary of state shall reside.

SEC. 6. There shall be elected in each county, by the qualified electors thereof, at the time of holding general elections, a county clerk, treasurer, sheriff, coroner, and surveyor, who shall severally hold offices for the term of two years.

SEC. 7. Such other county, township, precinct, and city officers as may be necessary shall be elected or appointed in such manner as may be prescribed by law.

SEC. 8. No person shall be elected or appointed to a county office who shall not be an elector of the county; and all county, township, precinct, and city officers shall keep their respective offices at such places therein, and perform such duties as may be prescribed by law.

SEC. 9. Vacancies in county, township, precinct, and city offices shall be filled in such manner as may be prescribed by law.

ARTICLE VII

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of the State shall be vested in a supreme court, circuit courts, and county court, which shall be courts of record, having general jurisdiction, to be defined, limited, and regulated by law, in accordance with this constitution. Justices of the peace may also be invested with limited judicial powers, and municipal courts may be created to administer the regulations of incorporated towns and cities.

SEC. 2. The supreme court shall consist of four justices, to be chosen in districts by the electors thereof, who shall be citizens of the United States, and who shall have resided in the State at least three years next preceding their election, and after their election to reside in their respective districts.

The number of justices and districts may be increased, but shall not exceed five until the white population of the State shall amount to one hundred thousand, and shall never exceed seven; and the boundaries of districts may be changed, but no change of district shall have the effect to remove a judge from office, or require him to change his residence without his consent.

SEC. 3. The judges first chosen under this constitution shall allot among themselves their terms of office, so that the term of one of them shall expire in two years, one in four years, and two in six years; and thereafter one or more shall be chosen every two years, to serve for the term of six years.

SEC. 4. Every vacancy in the office of judge of the supreme court shall be filled by election for the remainder of the vacant term, unless it would expire at the next election, and until so filled, or when it would so expire, the governor shall fill the vacancy by appointment.

SEC. 5. The judge who has the shortest term to serve, or the oldest of several having such shortest term, and not holding by appointment, shall be the chief justice.

SEC. 6. The supreme court shall have jurisdiction only to revise the final decisions of the circuit courts; and every cause shall be tried and every decision shall be made by those judges only, or a majority of them, who did not try the cause or make the decision in the circuit court.

SEC. 7. The terms of the supreme court shall be appointed by law; but there shall be one term at the seat of government annually. And at the close of each term the judges shall file with the secretary of state concise written statements of the decisions made a that term.

SEC. 8. The circuit court shall be held twice, at least, in each year, in each county organized for judicial purposes, by one of the justices of the supreme court, at times to be appointed by law; and at such other times as may be appointed by the judges severally in pursuance of law.

SEC. 9. All judicial power, authority, and jurisdiction not vested by this constitution, or by laws consistent therewith, exclusively in some other court, shall belong to the circuit courts; and they shall have appellate jurisdiction and supervisory control over the county courts, and all other inferior courts, officers, and tribunals.

SEC. 10. When the white population of the State shall amount to two hundred thousand, the legislative assembly may provide for the election of supreme and circuit judges in distinct classes, one of which classes shall consist of three justices of the supreme court, who shall not perform circuit duty; and the other class shall consist of the necessary number of circuit judges, who shall hold full terms, without allotment, and who shall take the same oath as the supreme judges.

SEC. 11. There shall be elected in each county, for the term of four years, a county judge, who shall hold the county court at times to be regulated by law.

SEC. 12. The county court shall have the jurisdiction pertaining to probate courts and boards of county commissioners, and such other powers and duties, and such civil jurisdiction not exceeding the amount or value of five hundred dollars, and such criminal jurisdiction not extending to death or imprisonment in the penitentiary, as may be prescribed by law. But the legislative assembly may provide for the election of two commissioners to sit with the county judge whilst transacting county business in any or all the counties, or may provide a separate board for transacting such business.

SEC. 13. The county judge may grant preliminary injunctions, and such other writs as the legislative assembly may authorize him

to grant, returnable to the circuit court, or otherwise, as may be provided by law; and may hear and decide questions arising upon *habeas corpus*, provided such decision be not against the authority or proceedings of a court or judge of equal or higher jurisdiction.

SEC. 14. The counties having less than ten thousand white inhabitants shall be reimbursed, wholly or in part, for the salary and expenses of the county court, by fees, percentage, and other equitable taxation of the business done in said court and in the office of the county clerk.

SEC. 15. A county clerk shall be elected in each county for the term of two years, who shall keep all the public records, books, and papers of the county, record conveyances, and perform the duties of clerk of the circuit and county courts, and such other duties as may be prescribed by law; but whenever the number of voters in the county shall exceed twelve hundred, the legislative assembly may authorize the election of one person as clerk of the circuit court, one person as clerk of the county court, and one person recorder of conveyances.

SEC. 16. A sheriff shall be elected in each county for the term of two years, who shall be the ministerial officer of the circuit and county courts, and shall perform such other duties as may be prescribed by law.

SEC. 17. There shall be elected by districts, composed of one or more counties, a sufficient number of prosecuting attorneys, who shall be the law-officers of the State, and of the counties within their respective districts, and shall perform such duties pertaining to the administration of law and general police as the legislative assembly may direct.

SEC. 18. The legislative assembly shall so provide that the most competent of the permanent citizens of the county shall be chosen for jurors; and out of the whole number in attendance at the court, seven shall be drawn by lot as grand jurors, five of whom must concur to find an indictment; but the legislative assembly may modify or abolish grand juries.

SEC. 19. Public officers shall not be impeached; but incompetency, corruption, malfeasance, or delinquency in office may be tried in the same manner as criminal offences, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law.

SEC. 20. The governor may remove from office a judge of the supreme court, or prosecuting attorney, upon the joint resolution of the legislative assembly, in which two-thirds of the members elected to each house shall concur, for incompetency, corruption, malfeasance, or delinquency in office, or other sufficient cause, stated in such resolution.

SEC. 21. Every judge of the supreme court, before entering upon the duties of his office, shall take and subscribe, and transmit to the secretary of state, the following oath:

"I, —— ——, do solemnly swear [or affirm] that I will support the Constitution of the United States and the constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a judge of the supreme and circuit courts of said State according to the best of my ability, and that I will not accept any other office except judicial offices during the term for which I have been elected."

Article VIII

EDUCATION AND SCHOOL-LANDS

Section 1. The governor shall be superintendent of public instruction, and his powers and duties in that capacity shall be such as may be prescribed by law; but after the term of five years from the adoption of this constitution, it shall be competent for the legislative assembly to provide by law for the election of a superintendent, to provide for his compensation, and prescribe his powers and duties.

Sec. 2. The proceeds of all the lands which have been, or hereafter may be, granted to this State for educational purposes, (excepting the lands heretofore granted to aid in the establishment of a university;) all the moneys and clear proceeds of all property which may accrue to the State by escheat or forfeiture; all moneys which may be paid as exemption from military duty; the proceeds of all gifts, devises, and bequests made by any person to the State for common-school purposes; the proceeds of all property granted to the State, when the purposes of such grant shall not be stated; all the proceeds of the five hundred thousand acres of land to which the State is entitled by the provisions of an act of Congress, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights," approved the fourth of September, 1841; and also the five per centum of the net proceeds of the sales of the public lands to which this State shall become entitled on her admission into the Union, (if Congress shall assent to such appropriation of the two grants last mentioned,) shall be set apart as a separate and irreducible fund, to be called the common-school fund, the interest of which, together with all other revenues derived from the school-lands mentioned in this section, shall be exclusively applied to the support and maintenance of common schools in each school-district, and purchase of suitable libraries and apparatus therefor.

Sec. 3. The legislative assembly shall provide by law for the establishment of a uniform and regular system of common schools.

Sec. 4. Provision shall be made by law for the distribution of the income of the common-school fund among the several counties of the State, in proportion to the number of children resident therein between the ages of four and twenty years.

Sec. 5. The governor, secretary of state, and State treasurer shall constitute a board of commissioners for the sale of school and university lands, and for the investment of the funds arising therefrom, and their powers and duties shall be such as may be prescribed by law: *Provided*, That no part of the university funds, or of the interest arising therefrom, shall be expended until the period of ten years from the adoption of this constitution, unless the same shall be otherwise disposed of, by the consent of Congress, for common-school purposes.

Article IX

FINANCE

Section 1. The legislative assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all

property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes as may be specially exempted by law.

SEC. 2. The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the interest on the State debt, if there be any.

SEC. 3. No tax shall be levied, except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 4. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

SEC. 5. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the legislative assembly.

SEC. 6. Whenever the expenses of any fiscal year shall exceed the income, the legislative assembly shall provide for levying a tax for the ensuing fiscal year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expense of the ensuing fiscal year.

SEC. 7. Laws making appropriations for the salaries of public officers, and other current expenses of the State, shall contain provisions upon no other subject.

SEC. 8. All stationery required for the use of the State shall be furnished by the lowest responsible bidder, under such regulations as may be prescribed by law; but no State officer or member of the legislative assembly shall be interested in any bid or contract for furnishing such stationery.

ARTICLE X

MILITIA

SECTION 1. The militia of this State shall consist of all able-bodied male citizens between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this State.

SEC. 2. Persons whose religious tenets or conscientious scruples forbid them to bear arms, shall not be compelled to do so in time of peace, but shall pay an equivalent for personal service.

SEC. 3. The governor shall appoint the adjutant-general and the other chief officers of the general staff and his own staff and all officers of the line shall be elected by the persons subject to military duty in their respective districts.

SEC. 4. The majors-general, brigadiers-general, colonels, or commandants of regiments, battalions, or squadrons, shall severally appoint their staff-officers, and the governor shall commission all officers of the line and staff ranking as such.

SEC. 5. The legislative assembly shall fix by law the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and make all other needful rules and regulations in

such manner as they may deem expedient, not incompatible with the Constitution or laws of the United States, or of the constitution of this State, and shall fix the rank of all staff-officers.

Article XI

CORPORATIONS AND INTERNAL IMPROVEMENTS

Section 1. The legislative assembly shall not have the power to establish or incorporate any bank, or banking company, or moneyed institution whatever; nor shall any bank, company, or institution exist in the State, with the privilege of making, issuing, or putting in circulation any bill, check, certificate, promissory note, or other paper, or the paper of any bank, company, or person, to circulate as money.

Sec. 2. Corporations may be formed under general laws, but shall not be created by special laws, except for municipal purposes. All laws passed pursuant to this section may be altered, amended, or repealed, but not so as to impair or destroy any vested corporate rights.

Sec. 3. The stockholders of all corporations and joint-stock companies shall be liable for the indebtedness of said corporation to the amount of their stock subscribed and unpaid, and no more.

Sec. 4. No person's property shall be taken by any corporation under authority of law, without compensation being first made, or secured, in such manner as may be prescribed by law.

Sec. 5. Acts of the legislative assembly, incorporating towns and cities, shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

Sec. 6. The State shall not subscribe to, or be interested in, the stock of any company, association, or corporation.

Sec. 7. The legislative assembly shall not loan the credit of the State, nor in any manner, create any debt or liabilities which shall singly, or in the aggregate, with previous debts or liabilities, exceed the sum of fifty thousand dollars, except in case of war, or to repel invasion, or suppress insurrection; and every contract of indebtedness entered into, or assumed by or on behalf of the State, when all its liabilities and debts amount to said sum, shall be void and of no effect.

Sec. 8. The State shall never assume the debts of any county, town, city, or other corporation whatever, unless such debts shall have been created to repel invasion, suppress insurrection, or defend the State in war.

Sec. 9. No county, city, town, or other municipal corporation, by vote of its citizens or otherwise, shall become a stockholder in any joint-stock company, corporation, or association whatever, or raise money for, or loan its credit to or in aid of any such company, corporation, or association.

Sec. 10. No county shall create any debts or liabilities which shall singly, or in the aggregate, exceed the sum of five thousand dollars, except to suppress insurrection or repel invasion; but the debts of any county at the time this constitution takes effect shall be disregarded in estimating the sum to which such county is limited.

Article XII

STATE PRINTER

There shall be elected by the qualified electors of the State, at the times and places of choosing members of the legislative assembly, a State printer, who shall hold his office for the term of four years.

He shall perform all the public printing for the State which may be provided by law. The rates to be paid to him for such printing shall be fixed by law, and shall neither be increased nor diminished during the term for which he shall have been elected. He shall give such security for the performance of his duties as the legislative assembly may provide.

Article XIII

SALARIES

The governor shall receive an annual salary of fifteen hundred dollars. The secretary of state shall receive an annual salary of fifteen hundred dollars. The treasurer of state shall receive an annual salary of eight hundred dollars. The judges of the supreme court shall each receive an annual salary of two thousand dollars. They shall receive no fees or perquisites whatever for the performace of any duties connected with their respective offices; and the compensation of officers, if not fixed by this constitution, shall be provided by law.

Article XIV

SEAT OF GOVERNMENT

Section 1. The legislative assembly shall not have power to establish a permanent seat of government for this State; but at the first regular session after the adoption of this constitution the legislative assembly shall provide by law for the submission to the electors of this State, at the next general election thereafter, the matter of the selection of a place for a permanent seat of government; and no place shall ever be the seat of government under such law which shall not receive a majority of all the votes cast on the matter of such election.

Sec. 2. No tax shall be levied, or money of the State expended, or debt contracted for the erection of a State-house prior to the year eighteen hundred and sixty-five.

Sec. 3. The seat of government, when established as provided in section one, shall not be removed for the term of twenty years from the time of such establishment, nor in any other manner than as provided in the first section of this article: *Provided*, That all public institutions of the State hereafter provided for by the legislative assembly shall be located at the seat of government.

Article XV

MISCELLANEOUS

Section 1. All officers, except members of the legislative assembly, shall hold their offices until their successors are elected and qualified.

Sec. 2. When the duration of any office is not provided for by this

constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the legislative assembly shall not create any office the tenure of which shall be longer than four years.

SEC. 3. Every person elected or appointed to any office under this constitution shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and also an oath of office.

SEC. 4. Lotteries, and the sale of lottery-tickets, for any purpose whatever, are prohibited, and the legislative assembly shall prevent the same by penal laws.

SEC. 5. The property and pecuniary rights of every married woman, at the time of marriage, or afterwards, acquired by gift, devise, or inheritance, shall not be subject to the debts or contracts of the husband, and laws shall be passed providing for the registration of the wife's separate property.

SEC. 6. No county shall be reduced to an area less than four hundred square miles; nor shall any new county be established in this State containing a less area, nor unless such new county shall contain a population of at least twelve hundred inhabitants.

SEC. 7. No State officer, or member of the legislative assembly, shall, directly or indirectly, receive a fee, or be engaged as counsel, agent, or attorney in the prosecution of any claim against this State.

SEC. 8. No Chinaman, not a resident of the State at the time of the adoption of this constitution, shall ever hold any real estate or mining-claim, or work any mining-claim therein.

The legislative assembly shall provide by law in the most effective manner for carrying out the above provision.

ARTICLE XVI

BOUNDARIES

SECTION 1. In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship-channel of the Columbia River; thence easterly to and up the middle channel of said river, and, where it is divided by islands, up the middle of the widest channel thereof, and in like manner up the middle of the main channel of Snake River to the mouth of the Owyhee River; thence due south to the parallel of latitude forty-two degrees north; thence west along said parallel to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia River and Snake River, concurrently with States and Territories of which those rivers form a boundary in common with this State. But the Congress of the United States, in providing for the admission of this State into the Union, may make the said northern boundary conform to the act creating the Territory of Washington.

Article XVII

AMENDMENTS

Section 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislative assembly, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the legislative assembly to be chosen at the next general election; and if in the legislative assembly so next chosen such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislative assembly to submit such amendment or amendments to the electors of the State, and cause the same to be published without delay at least four consecutive weeks in the several newspapers published in this State; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this constitution.

Sec. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while an amendment or amendments, which shall have been agreed upon by one legislative assembly, shall be awaiting the action of a legislative assembly, or of the electors, no additional amendment or amendments shall be proposed.

Article XVIII

SCHEDULE

Section 1. For the purpose of taking the vote of the electors of the State for the acceptance or rejection of this constitution, an election shall be held on the second Monday of November, in the year 1857, to be conducted according to existing laws regulating the election of Delegate in Congress, so far as applicable, except as herein otherwise provided.

Sec. 2. Each elector who offers to vote upon this constitution shall be asked by the judges of election this question:

"Do you vote for the constitution—yes or no?"

And also this question:

"Do you vote for slavery in Oregon—yes or no?"

And also this question:

"Do you vote for free negroes in Oregon—yes or no?"

And in the poll-books shall be columns headed, respectively, "Constitution—Yes;" "Constitution—No;" "Free negroes—Yes;" "Free negroes—No;" "Slavery—Yes;" "Slavery—No." And the names of electors shall be entered in the poll-books, together with their answers to the said questions under their appropriate heads. The abstracts of the votes transmitted to the secretary of the Territory shall be publicly opened, and canvassed by the governor and secretary, or by either of them, in the absence of the other; and the governor, or, in his absence, the secretary, shall forthwith issue his proclamation, and

publish the same in the several newspapers printed in this State, declaring the result of the said election upon each of said questions.

SEC. 3. If a majority of all the votes given for and against the constitution shall be given for the constitution, then this constitution shall be deemed to be approved and accepted by the electors of the State, and shall take effect accordingly; and if a majority of such votes shall be given against the constitution, then this constitution shall be deemed to be rejected by the electors of the State, and shall be void.

SEC. 4. If this constitution shall be accepted by the electors, and a majority of all the votes given for and against slavery shall be given for slavery, then the following section shall be added to the bill of rights, and shall be part of this constitution:

"Section —. Persons lawfully held as slaves in any State, Territory, or district of the United States, under the laws thereof, may be brought into this State, and such slaves, and their descendants, may be held as slaves within this State, and shall not be emancipated without the consent of their owners."

And if a majority of such votes shall be given against slavery, then the foregoing shall not, but the following section shall, be added to the bill of rights, and shall be a part of this constitution:

"Section —. There shall be neither slavery nor involuntary servitude in the State, otherwise than as a punishment for crime, whereof the party shall have been duly convicted." [a]

And if a majority of all the votes given for and against free negroes shall be given against free negroes, then the following section shall be added to the bill of rights and shall be part of this constitution:

"Section —. No free negro or mulatto, not residing in this State at the time of the adoption of this constitution, shall come, reside, or be within this State, or hold any real estate, or make any contracts, or maintain any suit therein; and the legislative assembly shall provide by penal laws for the removal by public officers of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein." [b]

SEC. 5. Until an enumeration of the white inhabitants of the State shall be made, and the senators and representatives apportioned as directed in this constitution, the county of Marion shall have two senators and four representatives; Linn, two senators and four representatives; Lane, two senators and three representatives; Clackamas and Wasco, one senator jointly, and Clackamas, three representatives, and Wasco, one representative; Yamhill, one senator and two representatives; Polk, one senator and two representatives; Benton, one senator and two representatives; Multnomah, one senator and two representatives; Washington, Columbia, Clatsop, and Tillamook, one senator jointly, and Washington, one representative, and Washington and Columbia, one representative jointly, and Clatsop and Tillamook one representative jointly; Douglas, one senator and two representatives; Jackson, one senator and three representatives; Josephine, one senator and one representative; Umpqua, Coos, and Curry, one senator jointly, and Umpqua one representative, and Coos and Curry one representative jointly.

[a] See Bill of Rights, clause 39. [b] See Bill of Rights, clause 35.

SEC. 6. If this constitution shall be ratified, an election shall be held on the first Monday in June, 1858, for the election of members of the legislative assembly, a Representative in Congress, and State and county officers; and the legislative assembly shall convene at the capital the first Monday of July, 1858, and proceed to elect two Senators in Congress, and make such further provision as may be necessary to the complete organization of a State government.

SEC. 7. All laws in force in the Territory of Oregon when the constitution takes effect, and consistent therewith, shall continue in force until altered or repealed.

SEC. 8. All officers of the Territory of Oregon, or under its laws, when this constitution takes effect shall continue in office until superseded by the State authorities.

SEC. 9. Crimes and misdemeanors committed against the Territory of Oregon shall be punished by the State as they might have been punished by the Territory if the change of government had not been made.

SEC. 10. All property and rights of the Territory, and of the several counties, subdivisions, and political bodies-corporate of or in the Territory, including fines, penalties, forfeitures, debts, and claims of whatsoever nature, and recognizances, obligations, and undertakings to or for the use of the Territory, or any county, political corporation, officer, or otherwise, to or for the public shall insure to the State or remain to the county, local division, corporation, officer, or public, as if the change of government had not been made. And private rights shall not be affected by such change.

SEC. 11. Until otherwise provided by law, the judicial districts of the State shall be constituted as follows: The counties of Jackson, Josephine, and Douglas shall constitute the first district. The counties of Umpqua, Coos, and Curry, Lane, and Benton shall constitute the second district. The counties of Lynn, Marion, Polk, Yamhill, and Washington shall constitute the third district. The counties of Clackamas, Multonomah, Wasco, Columbia, Clatsop, and Tillamook shall constitute the fourth district; and the county of Tillamook shall be attached to the county of Clatsop for judicial purposes.

Done in convention, at Salem, the eighteenth day of September, in the year of our Lord one thousand eight hundred and fifty-seven, and of the Independence of the United States the eighty-second.

M. P. DEADY, *President.*

CHESTER N. TERRY, *Secretary.*
M. C. BARKWELL, *Assistant Secretary.*

AMENDMENT OF THE CONSTITUTION OF THE STATE OF OREGON[a]

Section 1 of article IV of the Constitution of the State of Oregon shall be, and hereby is, amended to read as follows:

"SECTION 1. The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and amendments to the constitution and to enact or reject the same

[a]Adopted by the twentieth legislative assembly; adopted by the twenty-first legislative assembly; adopted by the people, by vote of 62,024 for, to 5,668 against it, June 2, 1902.

at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the initiative, and not more than eight per cent of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety,) either by the petition signed by five per cent of the legal voters, or by the legislative assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon, and not otherwise. The style of all bills shall be: "Be it enacted by the people of the State of Oregon." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for justice of the supreme court at the regular election last preceding the filing of any petition for the initiative or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the initiative and for the referendum shall be filed with the secretary of state, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor."

(June 4, 1906)

Article IV of the Constitution of the State of Oregon shall be, and hereby is, amended by inserting the following section in said article IV after section 1, and before section 2, and it shall be designated in the Constitution as section 1*a* of article IV:

"SECTION 1*a*. The referendum may be demanded by the people against one or more items, sections, or parts of any act of the legislative assembly in the same manner in which such power may be exercised against a complete act. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of that act from becoming operative. The initiative and referendum powers reserved to the people by this Constitution are hereby further reserved to the legal voters of every municipality and district, as to all local, special, and municipal legislation, of every character, in or for their respective municipalities and districts. The manner of exercising said powers shall be prescribed by general laws, except that cities and towns may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. Not more than ten per cent of

the legal voters may be required to order the referendum nor more than fifteen per cent to propose any measure, by the initiative, in any city or town."

Sections 1 and 2 of article XVII of the Constitution of the State of Oregon shall be, and hereby are, amended to read as follows:

"SECTION 1. Any amendment or amendments to this Constitution may be proposed in either branch of the legislative assembly, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the Secretary of State to the people for their approval or rejection, at the next regular general election, except when the legislative assembly shall order a special election for that purpose. If a majority of the electors voting on any such amendment shall vote in favor thereof, it shall thereby become a part of this Constitution. The votes for and against such amendment or amendments, severally, whether proposed by the legislative assembly or by initiative petition, shall be canvassed by the Secretary of State in the presence of the Governor, and if it shall appear to the Governor that the majority of the votes cast at said election on said amendment or amendments, severally, are cast in favor thereof, it shall be his duty forthwith after such canvass, by his proclamation, to declare the said amendment or amendments, severally, having received said majority of votes to have been adopted by the people of Oregon as part of the Constitution thereof, and the same shall be in effect as a part of the Constitution from the date of such proclamation. When two or more amendments shall be submitted in the manner aforesaid to the voters of this State, at the same election, they shall be so submitted that each amendment shall be voted on separately. No convention shall be called to amend or propose amendments to this Constitution, or to propose a new Constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular general election. This article shall not be construed to impair the right of the people to amend this Constitution by vote upon an initiative petition therefor."

Section 2 of article XI of the Constitution of the State of Oregon shall be, and the same is, hereby amended to read as follows:

"SEC. 2. Corporations may be formed under general laws, but shall not be created by the legislative assembly by special laws. The legislative assembly shall not enact, amend, or repeal any charter or act of incorporation for any municipality, city, or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the constitution and criminal laws of the State of Oregon."

Section 1 of article XII of the Constitution of the State of Oregon shall be, and hereby is, amended to read as follows:

"SECTION 1. Laws may be enacted providing for the state printing and binding, and for the election or appointment of a State Printer, who shall have had not less than ten years' experience in the art of printing. The State Printer shall receive such compensation as may from time to time be provided by law. Until such laws shall be enacted the State Printer shall be elected and the printing done as heretofore provided by this constitution and the general laws."

PANAMA CANAL ZONE

ACT PROVIDING FOR CONSTRUCTION OF ISTHMIAN CANAL, 1902

[FIFTY-SEVENTH CONGRESS, FIRST SESSION]

An Act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of said canal company, provided a satisfactory title to all of said property can be obtained.

SEC. 2. That the President is hereby authorized to acquire from the Republic of Colombia, for and on behalf of the United States, upon such terms as he may deem reasonable, perpetual control of a strip of land, the territory of the Republic of Colombia, not less than six miles in width, extending from the Caribbean Sea to the Pacific Ocean, and the right to use and dispose of the waters thereon, and to excavate, construct, and to perpetually maintain, operate, and protect thereon a canal, of such depth and capacity as will afford convenient passage of ships of the greatest tonnage and draft now in use, from the Caribbean Sea to the Pacific Ocean, which control shall include the right to perpetually maintain and operate the Panama Railroad, if the ownership thereof, or a controlling interest therein, shall have been acquired by the United States, and also jurisdiction over said strip and the ports at the ends thereof to make such police and sanitary rules and regulations as shall be necessary to preserve order and preserve the public health thereon, and to establish such judicial tribunals as may be agreed upon thereon as may be necessary to enforce such rules and regulations.

The President may acquire such additional territory and rights from Colombia as in his judgment will facilitate the general purpose hereof.

SEC. 3. That when the President shall have arranged to secure a satisfactory title to the property of the New Panama Canal Company,

as provided in section one hereof, and shall have obtained by treaty control of the necessary territory from the Republic of Colombia, as provided in section two hereof, he is authorized to pay for the property of the New Panama Canal Company forty millions of dolalrs and to the Republic of Colombia such sum as shall have been agreed upon, and a sum sufficient for both said purposes is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid on warrant or warrants drawn by the President.

The President shall then through the Isthmian Canal Commission hereinafter authorized cause to be excavated, constructed, and completed, utilizing to that end as far as practicable the work heretofore done by the New Panama Canal Company, of France, and its predecessor company, a ship canal from the Caribbean Sea to the Pacific Ocean. Such canal shall be of sufficient capacity and depth as shall afford convenient passage for vessels of the largest tonnage and greatest draft now in use, and such as may be reasonably anticipated, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing through the same from ocean to ocean; and he shall also cause to be constructed such safe and commodious harbors at the termini of said canal, and make such provisions for defense as may be necessary for the safety and protection of said canal and harbors. That the President is authorized for the purposes aforesaid to employ such persons as he may deem necessary, and to fix their compensation.

SEC. 4. That should the President be unable to obtain for the United States a satisfactory title to the property of the New Panama Canal Company and the control of the necessary territory of the Republic of Colombia and the rights mentioned in sections one and two of this Act, within a reasonable time and upon reasonable terms, then the President, having first obtained for the United States perpetual control by treaty of the necessary territory from Costa Rica and Nicaragua, upon terms which he may consider reasonable, for the construction, perpetual maintenance, operation, and protection of a canal connecting the Caribbean Sea with the Pacific Ocean by what is commonly known as the Nicaragua route, shall through the said Isthmian Canal Commission cause to be excavated and constructed a ship canal and waterway from a point on the shore of the Caribbean Sea near Greytown, by way of Lake Nicaragua, to a point near Brito on the Pacific Ocean. Said canal shall be of sufficient capacity and depth to afford convenient passage for vessels of the largest tonnage and greatest draft now in use, and such as may be reasonably anticipated, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing through the same from ocean to ocean; and he shall also construct such safe and commodious harbors at the termini of said canal as shall be necessary for the safe and convenient use thereof, and shall make such provisions for defense as may be necessary for the safety and protection of said harbors and canal; and such sum or sums of money as may be agreed upon by such treaty as compensation to be paid to Nicaragua and Costa Rica for the concessions and rights hereunder provided to be acquired by the United States, are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid on warrant or warrants drawn by the President.

The President shall cause the said Isthmian Canal Commission to make such surveys as may be necessary for said canal and harbors to be made, and in making such surveys and in the construction of said canal may employ such persons as he may deem necessary, and may fix their compensation.

In the excavation and construction of said canal the San Juan River and Lake Nicaragua, or such parts of each as may be made available, shall be used.

SEC. 5. That the sum of ten million dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, toward the project herein contemplated by either route so selected.

And the President is hereby authorized to cause to be entered into such contract or contracts as may be deemed necessary for the proper excavation, construction, completion, and defense of said canal, harbors, and defenses, by the route finally determined upon under the provisions of this Act. Appropriations therefor shall from time to time be hereafter made, not to exceed in the aggregate the additional sum of one hundred and thirty-five millions of dollars should the Panama route be adopted, or one hundred and eighty millions of dollars should the Nicaragua route be adopted.

SEC. 6. That in any agreement with the Republic of Colombia, or with the States of Nicaragua and Costa Rica, the President is authorized to guarantee to said Republic or to said States the use of said canal and harbors, upon such terms as may be agreed upon, for all vessels owned by said States or by citizens thereof.

SEC. 7. That to enable the President to construct the canal and works appurtenant thereto as provided in this Act, there is hereby created the Isthmian Canal Commission, the same to be composed of seven members, who shall be nominated and appointed by the President, by and with the advice and consent of the Senate, and who shall serve until the completion of said canal unless sooner removed by the President, and one of whom shall be named as the chairman of said Commission. Of the seven members of said Commission at least four of them shall be persons learned and skilled in the science of engineering, and of the four at least one shall be an officer of the United States Army, and at least one other shall be an officer of the United States Navy, the said officers respectively being either upon the active or the retired list of the Army or of the Navy. Said commissioners shall each receive such compensation as the President shall prescribe until the same shall have been otherwise fixed by the Congress. In addition to the members of said Isthmian Canal Commission, the President is hereby authorized through said Commission to employ in said service any of the engineers of the United States Army at his discretion, and likewise to employ any engineers in civil life, at his discretion, and any other persons necessary for the proper and expeditious prosecution of said work. The compensation of all such engineers and other persons employed under this Act shall be fixed by said Commission, subject to the approval of the President. The official salary of any officer appointed or employed under this Act shall be deducted from the amount of salary or compensation provided by or which shall be fixed under the terms of this Act. Said Commission shall in all matters be subject to the direction and control of the President, and shall make to the President annually and at such other periods as may be required, either by law or by the

order of the President, full and complete reports of all their actings and doings and of all moneys received and expended in the construction of said work and in the performance of their duties in connection therewith, which said reports shall be by the President transmitted to Congress. And the said Commission shall furthermore give to Congress, or either House of Congress, such information as may at any time be required either by Act of Congress or by the order of either House of Congress. The President shall cause to be provided and assigned for the use of the Commission such offices as may, with the suitable equipment of the same, be necessary and proper, in his discretion, for the proper discharge of the duties thereof.

SEC. 8. That the Secretary of the Treasury is hereby authorized to borrow on the credit of the United States from time to time, as the proceeds may be required to defray expenditures authorized by this Act (such proceeds when received to be used only for the purpose of meeting such expenditures), the sum of one hundred and thirty million dollars, or so much thereof as may be necessary, and to prepare and issue therefor coupon or registered bonds of the United States in such form as he may prescribe, and in denominations of twenty dollars or some multiple of that sum, redeemable in gold coin at the pleasure of the United States after ten years from the date of their issue, and payable thirty years from such date, and bearing interest payable quarterly in gold coin at the rate of two per centum per annum; and the bonds herein authorized shall be exempt from all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority: *Provided*, That said bonds may be disposed of by the Secretary of the Treasury at not less than par, under such regulations as he may prescribe, giving to all citizens of the United States an equal opportunity to subscribe therefor, but no commissions shall be allowed or paid thereon; and a sum not exceeding one-tenth of one per centum of the amount of the bonds herein authorized is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing the same.

Approved, June 28, 1902.

ISTHMIAN CANAL CONVENTION—1903 [a]

Convention between the United States and the Republic of Panama for the construction of a ship canal to connect the waters of the Atlantic and Pacific oceans. Signed at Washington, November 18, 1903; ratification advised by the Senate, February 23, 1904; ratified by the President, February 25, 1904; ratified by Panama, December 2, 1903; ratifications exchanged at Washington, February 26, 1904; proclaimed, February 26, 1904.

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus

[a] In this connection the following resolutions are interesting: To extend aid to United States citizens in surveying for a canal across the Isthmus of Darien, resolution of February 25, 1867; to fix upon terms by which a right of way across the Isthmus might be obtained by the United States Government, resolution of March 2, 1867.

of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries,

The President of the United States of America, JOHN HAY, Secretary of State, and

The Government of the Republic of Panama, PHILIPPE BUNAU-VARILLA, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The United States guarantees and will maintain the independence of the Republic of Panama.

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary

lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

ARTICLE IV

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

ARTICLE V

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

ARTICLE VI

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

ARTICLE VII

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors

and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

Article VIII

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in possession of said companies within Panama or Colon or the ports or terminals thereof.

Article IX

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.

Article X

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the Canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

Article XI

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

Article XII

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nation-

ality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

Article XIII

The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the Canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

Article XIV

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars ($10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars ($250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this Article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

Article XV

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

ARTICLE XVI

The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

ARTICLE XVII

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

ARTICLE XVIII

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

ARTICLE XIX

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

ARTICLE XX

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

ARTICLE XXI

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

ARTICLE XXII

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

ARTICLE XXIII

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

ARTICLE XXIV

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

ARTICLE XXV

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

ARTICLE XXVI

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

JOHN HAY [SEAL]
P. BUNAU-VARILLA [SEAL]

TEMPORARY GOVERNMENT OF CANAL ZONE—1904

[FIFTY-EIGHTH CONGRESS, SECOND SESSION]

An Act to provide for the temporary government of the Canal Zone at Panama, the protection of the canal works, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized, upon the acquisition of the property of the New Panama Canal Company and the payment to the Republic of Panama of the ten millions of dollars provided by article fourteen Panama Canal Company and the payment to the Republic of the ratifications of which were exchanged on the twenty-sixth day of February, nineteen hundred and four, to be paid to the latter Government, to take possession of and occupy on behalf of the United

States the zone of land and land under water of the width of ten miles, extending to the distance of five miles on each side of the center line of the route of the canal to be constructed thereon, which said zone begins in the Caribbean Sea three marine miles from mean low-water mark and extends to and across the Isthmus of Panama into the Pacific Ocean to the distance of three marine miles from mean low-water mark, and also of all islands within said zone, and in addition thereto the group of islands in the Bay of Panama named Perico, Naos, Culebra, and Flamenco, and, from time to time, of any lands and waters outside of said zone which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal, or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of said enterprise, the use, occupation, and control whereof were granted to the United States by article two of said reaty. The said zone is hereinafter referred to as "the Canal Zone." The payment of the ten millions of dollars provided by article fourteen of said treaty shall be made in lieu of the indefinite appropriation made in the third section of the Act of June twenty-eighth, nineteen hundred and two, and is hereby appropriated for said purposes.

SEC. 2. That until the expiration of the Fifty-eighth Congress, unless provision for the temporary government of the Canal Zone be sooner made by Congress, all the military, civil, and judicial powers as well as the power to make all rules and regulations necessary for the government of the Canal Zone and all the rights, powers, and authority granted by the terms of said treaty to the United States shall be vested in such person or persons and shall be exercised in such manner as the President shall direct for the government of said Zone and maintaining and protecting the inhabitants thereof in the free enjoyment of their liberty, property, and religion.

Approved, April 28, 1904.

PENNSYLVANIA

For organic acts relating to the lands now included within Pennsylvania see in other parts of this work:

Charter of Virginia, 1606 (Virginia, p. 3783).
Council of New England, 1620 (Massachusetts, p. 1827).
Dutch West India Company, 1621 (p. 59).
Charter of Maryland, 1632 (Maryland, p. 1669).
Charter of Connecticut, 1662 (Connecticut, p. 529).
Grant to the Duke of York, 1664 (Maine, p. 1637).
Grant to the Duke of York, 1674 (Maine, p. 1641).

ARTICLES OF THE SWEDISH SOUTH COMPANY—1626 [a]

(See the "Argonautica Gustaviana," printed at Frankfort-on-the-Main, 1633; see Delaware, p. 557.)

CHARTER FOR THE PROVINCE OF PENNSYLVANIA—1681 [b]

[Charles the Second by the Grace of God King of England, Scotland, France and Ireland Defender of the Faith &c To our Right Trusty and Welbeloved Chancellor Heneage Lord Finch our Chancellor of England greeting Wee will and comand you that under our Great Seale of England remaining in your Custody you cause our Letters to be made forth patents in form following] [c]

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[a] This company, which was established under the patronage of King Gustavus Adolphus, founded the first agricultural colonies on the banks of the Delaware River, although the Dutch had previously established trading-posts there, which had been destroyed by the Indians. The Swedes acquired, by successive purchases from the Indian chiefs, "all the land extending from Cape Henlopen to the great falls of Delaware." It was also asserted that when John Oxenstiern went to England, in 1631, as Swedish ambassador, Charles I ceded to Sweden all the pretensions that the English had upon the Delaware Valley, which consisted merely in the right of first discovery. Historians have never found this treaty, and the cession is regarded as doubtful.

[b] This charter, granted by Charles II to William Penn, constituted him and his heirs proprietors of the province, which, in honor of his father, Admiral Penn, (whose cash advances and services were thus requited,) was called Pennsylvania. To perfect his title, William Penn purchased, in August, 1682, a quit-claim from the Duke of York to the lands west of the Delaware River embraced in his patent of 1664.

"Charter to William Penn and Laws of the Province of Pennsylvania, passed between the Years 1682 and 1700, preceded by Duke of York's Laws in force from the year 1676 to the year 1682, with an appendix, containing Laws relating to the organization of the Provincial Courts and Historical matter. Published under the direction of John Blair Linn, Secretary of the Commonwealth. Compiled and edited by Staughton George, Benjamin M. Nead, Thomas McCamant. Harrisburg: Lane S. Hart, State Printer. 1879." 614 pp.

[c] The portion in brackets is found in the original copy, in the Public Record Office, London, Bundle 388, Privy Seals and Signed Bills (Chancery) 33 Charles the Second. See a certified copy in MS. from the Assistant Keeper of Public Records, London, September 25, 1878, in the Historical Society of Pennsylvania.

CHARLES the Second, by the Grace of God, King of *England*, *Scotland*, *France*, and *Ireland*, Defender of the Faith, &c. To all whom these presents shall come, *Greeting*. WHEREAS Our Trustie and well-beloved Subject WILLIAM PENN, Esquire, Sonne and heire of Sir WILLIAM PENN deceased, out of a commendable Desire to enlarge our *English* Empire, and promote such usefull comodities as may bee of Benefit to us and Our Dominions, as also to reduce the savage Natives by gentle and just manners to the Love of Civil Societie and Christian Religion, hath humbley besought Leave of Us to transport an ample Colonie unto a certaine Countrey hereinafter described, in the Partes of *America* not yet cultivated and planted; And hath likewise humbley besought Our Royall Majestie to Give, Grant, and Confirme all the said Countrey, with certaine Privileges and Jurisdictions, requisite for the good Government and Safetie of the said Countrey and Colonie, to him and his Heires forever: KNOW YE THEREFORE, That Wee, favouring the Petition and good Purpose of the said *William Penn*, and haveing Regard to the Memorie and Meritts of his late Father in divers Services, and perticulerly to his Conduct, Courage, and Discretion under our Dearest Brother JAMES Duke of *York*, in that Signall Battell and Victorie fought and obteyned against the *Dutch* Fleete, command by the Heer *Van Opdam*, in the yeare One thousand six hundred and sixty-five: In consideration thereof, of Our Speciale grace, certaine Knowledge, and meere Motion have Given and Granted, and by this Our present Charter, for Us, Our Heires and Successors, Doe give and Grant unto the said *William Penn*, his Heires and Assignes, all that Tract or Parte of Land in *America*, with all the Islands therein conteyned, as the same is bounded on the East by *Delaware* River, from twelve miles distance Northwards of *New Castle* Towne unto the three and fortieth degree of Northerne Latitude, if the said River doeth extende so farre Northwards; But if the said River shall not extend soe farre Northward, then by the said River soe farr as it doth extend; and from the head of the said River, the Easterne Bounds are to bee determined by a Meridian Line, to bee drawne from the head of the said River, unto the said three and fortieth Degree. The said Lands to extend westwards five degrees in longitude, to bee computed from the said Easterne Bounds; and the said Lands to bee bounded on the North by the beginning of the three and fortieth degree of Northern Latitude, and on the South by a Circle drawne at twelve miles distance from *New Castle* Northward and Westward unto the beginning of the fortieth degree of Northern Latitude, and then by a streight Line Westward to the Limitt of Longitude above-mentioned. WEE do also give and grant unto the said *William Penn*, his heires and assignes, the free and undisturbed use and continuance in, and passage into and out of all and singuler Ports, Harbours, Bays, Waters, Rivers, Isles, and Inletts, belonging unto, or leading to and from the Countrey or Islands aforesaid, And all the Soyle, lands, fields, woods, underwoods, mountaines, hills, fenns, Isles, Lakes, Rivers, waters, Rivuletts, Bays, and Inletts, scituate or being within, or belonging unto the Limitts and Bounds aforesaid, togeather with the fishing of all sortes of fish, whales, Sturgeons, and all Royall and other Fishes, in the Sea, Bayes, Inletts, waters, or Rivers within the premisses, and the Fish therein taken; And also all Veines, Mines, and Quarries, as well discovered as not discovered, of Gold, Silver, Gemms, and

Pretious Stones, and all other whatsoever, be it Stones, Mettals, or of any other thing or matter whatsoever, found or to bee found within the Countrey, Isles, or Limitts aforesaid: And him, the said *William Penn*, his heires and assignes, Wee doe by this Our Royall Charter, for Us, Our heires and Successors, make, create, and constitute the true and absolute Proprietarie of the Countrey aforesaid, and of all other the premisses, Saving alwayes to Us, Our heires and Successors, the Faith and Allegiance of the said *William Penn*, his heires and assignes, and of all other Proprietaries, Tenants, and Inhabitants that are or shall be within the Territories and Precincts aforesaid; and Saving also, unto Us, Our heires and Successors, the Sovereignty of the aforesaid Countrey; To have, hold, possess, and enjoy the said Tract of Land, Countrey, Isles, Inletts, and other the premisses unto the said *William Penn*, his heires and assignes, to the only Proper use and behoofe of the said *William Penn*, his heires and assignes for ever, to bee holden of Us, Our heires and Successors, Kings of *England*, as of Our Castle of *Windsor* in Our County of *Berks*, in free and comon Socage, by fealty only for all Services, and not *in Capite* or by Knights Service: Yielding and paying therefore to Us, Our heires and Successors, Two Beaver Skins, to bee delivered at Our said Castle of *Windsor* on the First Day of *January* in every Year; and also the Fifth Part of all Gold and Silver Oare, which shall from Time to Time happen to bee found within the Limitts aforesaid, cleare of all Charges. And of Our further Grace, certaine Knowledge, and meer motion, We have thought fitt to erect, and We doe hereby erect the aforesaid Countrey and Islands into a Province and Seigniorie, and doe call itt Pensilvania, and soe from henceforth we will have itt called.

And forasmuch as Wee have hereby made and ordained the aforesaid *William Penn*, his heires and assignes, the true and absolute Proprietaries of all the Lands and Dominions aforesaid, know ye therefore, That We reposing speciall trust and Confidence in the fidelitie, wisedom, Justice, and provident circumspection of the said *William Penn* for us, our heires and Successors, Doe grant free, full, and absolute power by vertue of these presents to him and his heires, and to his and their Deputies, and Lieutenants, for the good and happy government of the said countrey, to ordeyne, make, and enact, and under his and their Seales to publish any Lawes whatsoever, for the raising of money for the publick use of the said Province, or for any other End, apperteyning either unto the publick state, peace, or safety of the said Countrey, or unto the private utility of particular persons, according unto their best discretions, by and with the advice, assent, and approbation of the Freemen of the said Countrey, or the greater parte of them, or of their Delegates or Deputies, whom for the Enacting of the said Lawes, when, and as often as need shall require, Wee will that the said *William Penn* and his heires, shall assemble in such sort and forme, as to him and them shall seeme best, and the same Lawes duly to execute, unto and upon all People within the said Countrey and the Limitts thereof.

And wee doe likewise give and grant unto the said *William Penn*, and his heires, and to his and their Deputies and Lieutenants, full power and authoritie to appoint and establish any Judges and Justices, Magistrates and Officers whatsoever, for what Causes soever, for the probates of wills, and for the granting of Administrations

within the precincts aforesaid and with what Power soever, and in such forme as to the said *William Penn* or his heires shall seeme most convenient: Also to remitt, release, pardon, and abolish whether before Judgement or after all Crimes and Offences whatsoever comitted within the said Countrey against the said Lawes, Treason and wilful and malitious Murder onely excepted, and in those Cases to grant Reprieves, until Our pleasure may bee known therein and to doe all and every other thing and things, which unto the compleate Establishment of Justice, unto Courts and Tribunalls, formes of Judicature, and manner of Proceedings doe belong, altho in these presents expresse mention bee not made thereof; And by Judges by them delegated, to award Processe, hold Pleas, and determine in all the said Courts and Tribunalls all Actions, Suits, and Causes whatsoever, as well Criminall as Civill, Personall, reall and mixt; which Lawes, soe as aforesaid to bee published, Our Pleasure is, and soe Wee enjoyne, require, and command, shall bee most absolute and avaylable in law; and that all the Liege People and subjects of Us, Our heires and Successors, doe observe and keepe the same inviolabl in those partes, soe farr as they concerne them, under the paine therein expressed, or to bee expressed. PROVIDED nevertheles, That the said Lawes bee consonant to reason, and bee not repugnant or contrarie, but as neare as conveniently may bee agreeable to the Lawes and Statutes, and rights of this Our Kingdome of *England;* And Saving and reserving to Us, Our heires and Successors, the receiving, heareing, and determining of the appeale and appeales of all or any Person or Persons, of, in, or belonging to the Territories aforesaid, or touching any Judgement to bee there made or given.

AND forasmuch as in the Government of soe great a Countrey, sudden Accidents doe often happen, whereunto itt will bee necessarie to apply remedie before the Freeholders of the said Province, or their Delegates or Deputies, can bee assembled to the making of Lawes; neither will itt bee convenient that instantly upon every such emergent occasion, soe greate a multitude should be called together: Therefore for the better Government of the said Countrey Wee will, and ordaine, and by these presents, for us, our Heires and successors, Doe Grant unto the said *William Penn* and his heires, by themselves or by their Magistrates and Officers, in that behalfe duely to bee ordeyned as aforesaid, to make and constitute fitt and wholesome Ordinances, from time to time, within the said Countrey to bee kept and observed, as well for the preservation of the peace, as for the better government of the People there inhabiting; and publickly to notifie the same to all persons, whome the same doeth or anyway may concerne. Which ordinances, Our Will and Pleasure is, shall bee observed inviolably within the said Province, under Paines therein to be expressed, soe as the said Ordinances bee consonant to reason, and bee not repugnant nor contrary, but soe farre as conveniently may bee agreeable with the Lawes of our Kingdome of *England*, and soe as the said Ordinances be not extended in any Sort to bind, charge, or take away the right or Interest of any person or persons, for or in their Life, members, Freehold, goods, or Chattles. And our further will and pleasure is, that the Lawes for regulateing and governing of Propertie within the said Province, as well for the descent and enjoyment of lands, as likewise for the enjoyment and succession of goods and Chattles, and likewise as to Felonies, shall bee

and continue the same, as they shall bee for the time being by the generall course of the Law in our Kingdome of *England*, untill the said Lawes shall bee altered by the said *William Penn*, his heires or assignes, and by the Freemen of the said Province, their Delegates or Deputies, or the greater Part of them.

And to the End the said *William Penn*, or his heires, or other the Planters, Owners, or Inhabitants of the said Province, may not att any time hereafter by misconstruction of the powers aforesaid through inadvertencie or designe depart from that Faith and due allegiance, which by the lawes of this our Kingdom of *England*, they and all our subjects, in our Dominions and Territories, alwayes owe unto us, Our heires and Successors, by colour of any Extent or largnesse of powers hereby given, or pretended to bee given, or by force or colour of any lawes hereafter to bee made in the said Province, by vertue of any such Powers; Our further will and Pleasure is, that a transcript or Duplicate of all Lawes, which shall bee soe as aforesaid made and published within the said Province, shall within five yeares after the makeing thereof, be transmitted and delivered to the Privy Councell, for the time being, of us, our heires and successors: And if any of the said Lawes, within the space of six moneths after that they shall be soe transmitted and delivered, bee declared by us, Our heires or Successors, in Our or their Privy Councell, inconsistent with the Sovereigntey or lawful Prerogative of us, our heires or Successors, or contrary to the Faith and Allegiance due by the legall government of this Realme, from the said *William Penn*, or his heires, or of the Planters and Inhabitants of the said Province, and that thereupon any of the said Lawes shall bee adjudged and declared to bee void by us, our heires or Successors, under our or their Privy Seale, that then and from thenceforth, such Lawes, concerning which such Judgement and declaration shall bee made, shall become voyd: Otherwise the said Lawes soe transmitted, shall remaine, and stand in full force, according to the true intent and meaneing thereof.

Furthermore, that this new Colony may the more happily increase, by the multitude of People resorting thither; Therefore wee for us, our heirs and Successors, doe give and grant by these presents, power, Licence, and Libertie unto all the Liege People and Subjects, both present and future, of us, our heires, and Successors, excepting those who shall bee Specially forbidden to transport themselves and Families unto the said Countrey, with such convenient Shipping as by the lawes of this our Kingdome of *England* they ought to use, with fitting provisions, paying only the customes therefore due, and there to settle themselves, dwell and inhabitt, and plant, for the publick and their owne private advantage.

And furthermore, that our Subjects may bee the rather encouraged to undertake this expedicion with ready and cheerful mindes, know ye, That wee, of Our especiall grace, certaine knowledge, and meere motion, Doe Give and Grant by vertue of these presents, as well unto the said *William Penn*, and his heires, as to all others, who shall from time to time repaire unto the said Countrey, with a purpose to inhabitt there, or trade with the Natives of the said Countrey, full Licence to lade and freight in any ports whatsoever, of us, our heires and Successors, according to the lawes made or to be made within our Kingdome of *England*, and into the said Countrey, by them, theire Servants or assignes, to transport all and singuler theire

wares, goods, and Merchandizes, as likewise all sorts of graine whatsoever, and all other things whatsoever, necessary for food or cloathing, not prohibited by the Lawes and Statutes of our Kingdomes and Dominiones to be carryed out of the said Kingdomes, without any Lett or molestation of us, our heires and Successors, or of any of the Officers of us, our heires and Successors; saveing alwayes to us, our heires and Successors, the legall impositions, customes, and other Duties and payments, for the said Wares and Merchandize, by any Law or Statute due or to be due to us, our heires and Successors.

And Wee doe further, for us, our heires and Successors, Give and grant unto the said *William Penn*, his heires and assignes, free and absolute power, to Divide the said Countrey and Islands into Townes, Hundreds and Counties, and to erect and incorporate Townes into Borroughs, and Borroughs into Citties, and to make and constitute ffaires and Marketts therein, with all other convenient priviledges and immunities, according to the meritt of the inhabitants, and the ffitnes of the places, and to doe all and every other thing and things touching the premisses, which to him or them shall seeme meet and requisite, albeit they be such as of their owne nature might otherwise require a more especiall comandment and Warrant then in these presents is expressed.

We Will alsoe, and by these presents, for us, our heires and Successors, Wee doe Give and grant Licence by this our Charter, unto the said *William Penn*, his heires and assignes, and to all the inhabitants and dwellers in the Province aforesaid, both present and to come, to import or unlade, by themselves or theire Servants, ffactors or assignes, all merchandizes and goods whatsoever, that shall arise of the fruites and comodities of the said Province, either by Land or Sea, into any of the ports of us, our heires and successors, in our Kingdome of *England*, and not into any other Countrey whatsoever: And wee give him full power to dispose of the said goods in the said ports; and if need bee, within one yeare next after the unladeing of the same, to lade the said Merchandizes and Goods again into the same or other shipps, and to export the same into any other Countreys, either of our Dominions or fforeigne, according to Lawe: Provided alwayes, that they pay such customes and impositions, subsidies and duties for the same, to us, our heires and Successors, as the rest of our Subjects of our Kingdome of *England*, for the time being, shall be bound to pay, and doe observe the Acts of Navigation, and other Lawes in that behalfe made.

And furthermore, of our most ample and esspeciall grace, certaine knowledge, and meere motion, Wee doe, for us, our heires and Successors, Grant unto the said *William Penn*, his heires and assignes, full and absolute power and authoritie to make, erect, and constitute within the said Province and the Isles and Islets aforesaid, such and soe many Sea-ports, harbours, Creeks, Havens, Keyes, and other places, for discharge and unladeing of goods and Merchandizes, out of the shipps, Boates, and other Vessells, and ladeing them in such and soe many Places, and with such rights, Jurisdictions, liberties and priviledges unto the said ports belonging, as to him or them shall seeme most expedient; and that all and singuler the shipps, boates, and other Vessells, which shall come for merchandize and trade unto the said Province, or out of the same shall depart, shall be laden or unladen onely at such Ports as shall be erected and constituted by

the said *William Penn*, his heires and assignes, any use, custome, or other thing to the contrary notwithstanding. Provided, that the said *William Penn* and his heires, and the Lieutenants and Governors for the time being, shall admitt and receive in and about all such Ports, Havens, Creeks, and Keyes, all Officers and their Deputies, who shall from time to time be appointed for that Purpose by the ffarmers or Commissioners of our Customes for the time being.

And Wee doe further appoint and ordaine, and by these presents, for us, our heires and Successors, Wee doe grant unto the said *William Penn*, his heires and assignes, That he, the said *William Penn*, his heires and assignes, may from time to time for ever, have and enjoy the Customes and Subsidies, in the Portes, Harbours, and other Creeks and Places aforesaid, within the Province aforesaid, payable or due for merchandizes and wares there to be laded and unladed, the said Customes and Subsidies to be reasonably assessed upon any occasion, by themselves and the People there as aforesaid to be assembled, to whom wee give power by these presents, for us, our heires and Successors, upon just cause and in dudue p'portion, to assesse and impose the same; Saveing unto us, our heires and Successors, such impositions and Customes, as by Act of Parliament are and shall be appointed.

And it is Our further Will and plasure, that the said *William Penn*, his heires and assignes, shall from time to time constitute and appoint an Attorney or Agent, to Reside in or neare our City of *London*, who shall make knowne the place where he shall dwell or may be found, unto the Clerks of our Privy Counsell for the time being, or one of them, and shall be ready to appeare in any of our Courts att *Westminster*, to Answer for any Misdemeanors that shall be committed, or by any wilfull default or neglect permitted by the said *William Penn*, his heires or assignes, against our Lawes of Trade or Navigation; and after it shall be ascertained in any of our said Courts, what damages Wee or our heires or Successors shall have sustained by such default or neglect, the said *William Penn*, his heires and assignes shall pay the same within one yeare after such taxation, and demand thereof from such Attorney: or in case there shall be noe such Attorney by the space of a yeare, or such Attorney shall not make payment of such damages within the space of one yeare, and answer such other forfeitures and penalties within the said time, as by the Acts of Parliament in *England* are or shall be provided, according to the true intent and meaneing of these presents; then it shall be lawfull for us, our heires and Successors, to seize and Resume the government of the said Province or Countrey, and the same to retaine untill payment shall be made thereof: But notwithstanding any such Seizure or resumption of the government, nothing concerneing the propriety or ownership of any Lands, tenements, or other hereditaments, or goods or chattels of any the Adventurers, Planters, or owners, other then the respective Offenders there, shall be any way be affected or molested thereby.

Provided alwayes, and our will and pleasure is, that neither the said *William Penn*, nor his heires, or any other the inhabitants of the said Province, shall at any time hereafter have or maintain any Correspondence with any other king, prince, or State, or with any of theire subjects, who shall then be in Warr against us, our heires or

Successors; Nor shall the said *William Penn*, or his heires, or any other the Inhabitants of the said Province, make Warre or doe any act of Hostility against any other king, prince, or State, or any of theire Subjects, who shall then be in league or amity with us, our heires or successors.

And, because in soe remote a Countrey, and scituate neare many Barbarous Nations, the incursions as well of the Savages themselves, as of other enemies, pirates and robbers, may probably be feared; Therefore Wee have given, and for us, our heires and Successors, Doe give power by these presents unto the said *William Penn*, his heires and assignes, by themselves or theire Captaines or other their Officers, to levy, muster and traine all sorts of men, of what condition soever, or wheresoever borne, in the said Province of *Pensilvania*, for the time being, and to make Warre, and to pursue the enemies and Robbers aforesaid, as well by Sea as by Land, even without the Limitts of the said Province, and by God's assistance to vanquish and take them, and being taken to put them to death by the Law of Warre, or to save them, att theire pleasure, and to doe all and every other Thing which to the Charge and Office of a Captaine-Generall of an Army belongeth or hath accustomed to belong, as fully and ffreely as any Captaine-Generall of an Army hath ever had the same.

And furthermore, of Our especiall grace and of our certaine knowledge and meere motion, wee have given and granted, and by these presents, for us, our heires and Successors, do Give and Grant unto the said *William Penn*, his Heirs and Assigns, full and absolute power, licence and authoritie, that he, the said *William Penn*, his heires and assignes, from time to time hereafter forever, att his or theire own Will and pleasure may assigne, alien, Grant, demise, or enfeoffe of the Premises soe many and such partes or parcells to him or them that shall be willing to purchase the same, as they shall thinke fitt, To have and to hold to them the said person and persons willing to take or purchase, theire heires and assignes, in ffee-simple or ffee-taile, or for the terme of life, or lives or yeares, to be held of the said *William Penn*, his heires and assignes, as of the said Seigniory of *Windsor*, by such services, customes and rents, as shall seeme ffitt to the said *William Penn*, his heires and assignes, and not imediately of us, our heires and successors. And to the same person or persons, and to all and every of them, wee doe give and grant by these presents, for us, our heires and successors, licence, authoritie and power, that such person or persons may take the premisses, or any parcell thereof, of the aforesaid *William Penn*, his heires or assignes, and the same hold to themselves, their heires and assignes, in what estate of inheritance soever, in ffee-simple or in ffee-taile, or otherwise, as to him, the said *William Penn*, his heires and assignes, shall seem expedient: The Statute made in the parliament of Edward, sonne of King Henry, late King of *England*, our predecessor, commonly called *The Statute* Quia Emptores Terrarum, lately published in our Kingdome of *England* in any wise notwithstanding.

And by these presents wee give and Grant Licence unto the said *William Penn*, and his heires, likewise to all and every such person and persons to whom the said *William Penn* or his heires shall att any time hereafter grant any estate or inheritance as aforesaid, to erect any parcells of Land within the Province aforesaid into Mannors, by and with the Licence to be first had and obteyned for that

purpose, under the hand and Seale of the said *William Penn* or his heires; and in every of the said Mannors to have and to hold a Court-Baron, with all thinges whatsoever which to a Court-Baron do belong, and to have and to hold View of ffrank-pledge for the conservation of the peace and the better government of those partes, by themselves or their Stewards, or by the Lords for the time being of other Mannors to be deputed when they shall be erected, and in the same to use all things belonging to the View of ffrank-pledge. And Wee doe further grant licence and authoritie, that every such person and persons who shall erect any such Mannor or Mannors, as aforesaid, shall or may grant all or any parte of his said Lands to any person or persons, in ffee-simple, or any other estate of inheritance to be held of the said Mannors respectively, soe as noe further tenures shall be created, but that upon all further and other alienations thereafter to be made, the said lands soe aliened shall be held of the same Lord and his heires, of whom the alienor did then before hold, and by the like rents and Services which were before due and accustomed.

And further our pleasure is, and by these presents, for us, our heires and Successors, Wee doe covenant and grant to and with the said *William Penn*, and his heires and assignes, That Wee, our heires and Successors, shall at no time hereafter sett or make, or cause to be sett, any impossition, custome or other taxation, rate or contribution whatsoever, in and upon the dwellers and inhabitants of the aforesaid Province, for their Lands, tenements, goods or chattells within the said Province, or in and upon any goods or merchandize within the said Province, or to be laden or unladen within the ports or harbours of the said Province, unless the same be with the consent of the Proprietary, or chiefe governor, or assembly, or by act of Parliament in *England*.

And Our Pleasure is, and for us, our heires and Successors, Wee charge and comand, that this our Declaration shall from henceforward be received and allowed from time to time in all our courts, and before all the Judges of us, our heires and Successors, for a sufficient and lawfull discharge, payment and acquittance; commanding all and singular the officers and ministers of us, our heires and Successors, and enjoyneing them upon pain of our high displeasure, that they doe not presume att any time to attempt any thing to the contrary of the premisses, or that doe in any sort withstand the same, but that they be att all times aiding and assisting, as is fitting unto the said *William Penn*, and his heires, and to the inhabitants and merchants of the Province aforesaid, their Servants, Ministers, ffactors and Assignes, in the full use and fruition of the benefitt of this our Charter.

And Our further pleasure is, and wee doe hereby, for us, our heires and Successors, charge and require, that if any of the inhabitants of the said Province, to the number of Twenty, shall at any time hereafter be desirous, and shall by any writeing, or by any person deputed for them, signify such their desire to the Bishop of *London* for the time being that any preacher or preachers, to be approved of by the said Bishop, may be sent unto them for their instruction, that then such preacher or preachers shall and may be and reside within the said Province, without any deniall or molestation whatsoever.

And if perchance hereafter it should happen any doubts or questions should arise, concerning the true Sense and meaning of any

word, clause, or Sentence conteyned in this our present Charter, Wee will ordaine, and comand, that att all times and in all things, such interpretation be made thereof, and allowed in any of our Courts whatsoever, as shall be adjudged most advantageous and favourable unto the said *William Penn*, his heires and assignes: Provided always that no interpretation be admitted thereof by which the allegiance due unto us, our heires and Successors, may suffer any prejudice or diminution; Although express mention be not made in these presents of the true yearly value, or certainty of the premisses, or of any parte thereof, or of other gifts and grants made by us our progenitors or predecessors unto the said *William Penn:* Any Statute, Act, ordinance, provision, proclamation, or restraint heretofore had, made, published, ordained or provided, or any other thing, cause, or matter whatsoever, to the contrary thereof in any wise notwithstanding.

In witness, &c.

Given under our Privy Seale at our Palace of Westminster the Eight and Twentieth day of February in the Three and Thirtyeth Yeare of Our Reigne.

I. Mathew.[a]

CONCESSIONS TO THE PROVINCE OF PENNSYLVANIA—1681 *

Certain conditions, *or* concessions, *agreed upon by* William Penn, *Proprietary and Governor of the province of Pennsylvania, and those who are the adventurers and purchasers in the same province, the eleventh of July, one thousand six hundred and eighty-one.*

FIRST

That so soon as it pleaseth God that the abovesaid persons arrive there, a certain quantity of land, or ground plat, shall be laid out, for a large town or city, in the most convenient place, upon the river, for health and navigation; and every purchaser and adventurer shall, by lot, have so much land therein as will answer to the proportion, which he hath bought, or taken up, upon rent: but it is to be noted, that the surveyors shall consider what roads or high-ways will be necessary to the cities, towns, or through the lands. Great roads from city to city not to contain less than *forty* foot, in breadth, shall be first laid out and declared to be for high-ways, before the dividend of acres be laid out for the purchaser, and the like observation to be had for the streets in the towns and cities, that there may be convenient roads and streets preserved, not to be encroached upon by any planter or builder, that none may build irregularly to the damage of another. *In this, custom governs.*

II. That the land in the town be laid out together after the proportion of *ten thousand* acres of the whole country, that is, *two hun-*

* Votes and Proceedings of the House of Representatives of the Province of Pennsylvania, beginning the Fourth Day of December, 1682, vol. I, Philadelphia, printed and sold my B. Franklin, and D. Hall, at the New-Printing-Office near the market, MDCCLII, pp. xxiv–xxvi.

[a] This Charter passed the Great Seal on the fourth of March, which date is usually given as the date of the instrument.—Editor.

dred acres, if the place will bear it: however, that the proportion be by lot, and entire, so as those that desire to be together, especially those that are, by the catalogue, laid together, may be so laid together both in the town and country.

III. That, when the country lots are laid out, every purchaser, from *one thousand*, to *ten thousand* acres, or more, not to have above *one thousand* acres together, unless in *three* years they plant a family upon every *thousand* acres; but that all such as purchase together, lie together; and, if as many as comply with this condition, that the whole be laid out together.

IV. That, where any number of purchasers, more or less, whose number of acres amounts to *five* or *ten thousand* acres, desire to sit together in a lot, or township, they shall have their lot, or township, cast together, in such places as have convenient harbours, or navigable rivers attending it, if such can be found; and in case any one or more purchasers plant not according to agreement, in this concession, to the prejudice of others of the same township, upon complaint thereof made to the Governor, or his Deputy, with assistance, they may award (if they see cause) that the complaining purchaser may, paying the survey money, and purchase money, and interest thereof, be entitled, enrolled and lawfully invested, in the lands so not seated.

V. That the proportion of lands, that shall be laid out in the first great town, or city, for every purchaser, shall be after the proportion of *ten* acres for every *five hundred* acres purchased, if the place will allow it.

VI. That notwithstanding there be no mention made, in the several deeds made to the purchasers; yet the said *William Penn* does accord and declare, that all rivers, rivulets, woods, and underwoods, waters, watercourses, quarries, mines, and minerals, (except mines royal) shall be freely and fully enjoyed, and wholly by the purchasers, into whose lot they fall.

VII. That, for every *fifty* acres, that shall be allotted to a servant, at the end of his service, his quit-rent shall be *two shillings* per annum, and the master, or owner of the servant, when he shall take up the other *fifty acres*, his quit-rent, shall be *four shillings* by the year, or, if the master of the servant (by reason in the indentures he is so obliged to do) allot out to the servant *fifty* acres in his own division, the said master shall have, on demand, allotted him, from the governor, the *one hundred* acres, at the chief rent of six shillings per annum.

VIII. And, for the encouragement of such as are ingenious and willing to search out gold and silver mines in this province, it is hereby agreed, that they have liberty to bore and dig in any man's property, fully paying the damages done; and in case a discovery should be made, that the discoverer have *one-fifth*, the owner of the soil (if not the discoverer) a tenth part, the Governor *two-fifths*, and the rest to the public treasury, saving to the king the share reserved by patent.

IX. In every *hundred thousand* acres, the Governor and Proprietary, by lot, reserveth ten to himself, what shall lie but in one place.

X. That every man shall be bound to plant, or man, so much of his share of land as shall be set out and surveyed, within *three* years after it is so set out and surveyed, or else it shall be lawful for new

comers to be settled thereupon, paying to them their survey money, and they go up higher for their shares.

XI. There shall be no buying and selling, be it with an *Indian*, or one among another, of any goods to be exported, but what shall be performed in public market, when such places shall be set apart, or erected, where they shall pass the public stamp, or mark. If bad ware, and prized as good, or deceitful in proportion or weight, to forfeit the value, as if good and full weight and proportion, to the public treasury of this province, whether it be the merchandize of the *Indian*, or that of the planters.

XII. And forasmuch, as it is usual with the planters to over-reach the poor natives of the country, in trade, by goods not being good of the kind, or debased with mixtures, with which they are sensibly aggrieved, it is agreed, whatever is sold to the *Indians*, in consideration of their furs, shall be sold in the market place, and there suffer the test, whether good or bad; if good, to pass; if not good, not to be sold for good, that the natives may not be abused, nor provoked.

XIII. That no man shall, by any ways or means, in word, or deed, affront, or wrong any *Indian*, but he shall incur the same penalty of the law, as if he had committed it against his fellow planter, and if any *Indian* shall abuse, in word, or deed, any planter of this province, that he shall not be his own judge upon the *Indian*, but he shall make his complaint to the governor of the province, or his lieutenant, or deputy, or some inferior magistrate near him, who shall, to the utmost of his power, take care with the king of the said *Indian*, that all reasonable satisfaction be made to the said injured planter.

XIV. That all differences, between the planters and the natives, shall also be ended by *twelve* men, that is, by six planters and six natives; that so we may live friendly together as much as in us lieth, preventing all occasions of heart-burnings and mischief.

XV. That the *Indians* shall have liberty to do all things relating to improvement of their ground, and providing sustenance for their families, that any of the planters shall enjoy.

XVI. That the laws, as to slanders, drunkenness, swearing, cursing, pride in apparel, trespasses, distriesses, replevins, weights, and measures, shall be the same as in *England*, till altered by law in this province.

XVII. That all shall mark their hogs, sheep and other cattle, and what are not marked within *three* months after it is in their possession, be it young or old, it shall be forfeited to the governor, that so people may be compelled to avoid the occasions of much strife between planters.

XVIII. That, in clearing the ground, care be taken to leave *one* acre of trees for every *five* acres cleared, especially to preserve oak and mulberries, for silk and shipping.

XIX. That all ship-masters shall give an account of their countries, names, ships, owners, freights and passengers, to an officer to be appointed for that purpose, which shall be registered within two days after their arrival, and if they shall refuse so to do, that then none presume to trade with them, upon forfeiture thereof; and that such masters be looked upon as having an evil intention to the province.

XX. That no person leave the province, without publication being made thereof, in the market place, three weeks before, and a certificate

from some justice of the peace, of his clearness with his neighbours and those he dealt withal, so far as such an assurance can be attained and given: and if any master of a ship shall, contrary hereunto, receive and carry away any person, that hath not given that public notice, the said master shall be liable to all debts owing by the said person, so secretly transported from the province.

Lastly, That these are to be added to, or corrected, by and with the consent of the parties hereunto subscribed.

WILLIAM PENN.

Sealed and delivered in the presence of—
WILLIAM BOELHAM,
HARBERT SPRINGET,
THOMAS PRUDYARD.

Sealed and delivered in the presence of all of the proprietors, who have hereunto subscribed, except Thomas Farrinborrough and John Goodson, in presence of—

HUGH CHAMBERLEN,
R. MURRAY,
HARBERT SPRINGET,
HUMPHREY SOUTH,
THOMAS BARKER,
SAMUEL JOBSON,
JOHN JOSEPH MOORE,
WILLIAM POWEL,
RICHARD DAVIE,
GRIFFITH JONES,
HUGH LAMBE,
THOMAS FARRINBORROUGH,
JOHN GOODSON.

PENN'S CHARTER OF LIBERTIES—1682 *

TO ALL PEOPLE to whom these presents shall come WHEREAS King Charles the second by his Letters, Patents under the Great Seal of England for the Considerations therein mentioned hath been graciously pleased to give and grant unto me William Penn (By the name of William Penn Esq'r son and heir of Sr. William Penn deceased) and to my heirs and assigns forever ALL that tract of land or province called PENNSILVANIA in America with divers Great Powers Preheminencies Royalties Jurisdictions and Authorities necessary for the Well being and Government thereof NOW KNOW YE That for the Welll Being and Government of the said Province and for the Encouragement of all the ffreeman and Planters that may be therein concerned in pursuance of the powers afore mentond I the said William Penn have declared Granted and Confirmed and by these presents for me my heirs and Assigns do declare grant and Confirm unto all the ffreemen Planters and Adventurers of in and to the said Province those Liberties ffranchises and properties TO BE HELD Enjoyed and Kept by the Freemen Planters and Inhabitants of and in the said province of Pennsilvania forever.

"IMPRIMIS"—THAT the Government of this Province shall according to the Powers of the Patent consist of the Governour and ffreemen of the said Province in the fform of a Provincial Council and General Assembly by whom all Laws Shall be made Officers

* Verefied by Francis N. Thorpe, March 11, 1893, from the original Charter, at that time in the possession of Dr. Edward Maris, 1106 Pine Street, Philadelphia.

Chosen and publick affairs Transacted and is hereafter Respectively declared That is to say

2. That the ffreemen of the said Province shall on the Twentieth day of the Twelfth Month which shall be in this present year One Thousand Six hundred Eighty and two Meet and Assemble in some fit place of which timely notice shall be beforehand given by the Governour or his deputies and then and there shall chuse of themselvs Seventy-Two persons of most note for their Wisdom Virtue and Ability who shall meet on the Tenth day of the ffirst month next ensuing and always be called and act as the Provincial Councill of the said province.

3. That at the ffirst Choice of such Provincial Council One Third part of the said Provincial Council shall be Chosen to serve for Three years then next ensuing one Third part for Two years then next ensuing and one Third part for one year then next following such Election and no longer and that the said Third part shall go out accordingly and—on the Twentieth day of the Twelfth month aforesaid yearly forever afterward the ffreemen of the said province shall in like manner Meet and Assemble together and then Chuse Twenty ffour persons being one Third of the said Number to serve in provincial Council for Three years it being intended that one Third of the whole provincial Council (always consisting and to consist of seventy two persons as aforesaid) falling off yearly it shall be yearly supplied by such new yearly Eleccons as aforesaid and that no one person shall continue therein longer than Three years And in Case any member shall decease before the Last Eleccon during his time that then at the next Eleccon ensuing his decease another shall be chosen to Supply his place for the remaining time he was to have served and no longer.

4. That—After the ffirst Seven years every one of the said Third parts that goeth yearly off shall be uncapable of being Chosen again for one whole year following that so all may be fitted for the Government and have Experience of the Care and burthen of it.

5. That—In the provincial Council in all Cases and matters of moment as There agreeing upon Bills to be passed into Laws Exorting Courts of Justice having Judgment upon criminals Impeached and choice of Officers in such manner as is herein after menconed Not lesse than Two Thirds of the whole Provincial Council shall make a Quorum and that the Consent and approbaton of Two Thirds of said Quorum shall be had in all such Cases or matters of Moment. And moreover that in all cases and matters of lesser moment Twenty-ffour members of the said Provincial Council shall make a quorum The Majority of which ffour and Twenty shall and may always determine on such Cases and Causes of Lesser moment.

6. That—In this Provincial Council the Governour or his deputies shall or may always preside and have a treble Voice. And the said Provincial Council shall always Continue and Sit upon its own Adjournments and Committees.

7. That—The Governour and Provincial Council shall prepare and propose to the General Assembly hereinafter menconed all Bills which they shall at any time think fit to be past into Laws within the said Province which Bills shall be publisht and Affixed to the most noted places in the inhabited parts thereof Thirty days before the meeting of the General Assembly in order to the passing of them into laws or Rejecting of them as the General Assembly shall see meet.

8. That—The Governour and Provincial Council shall take Care that all Laws Statutes and Ordinances which shall at any time be made within the said Province be duly and diligently executed.

9. That—The Governour and Provincial Council shall at all times have the Care of the peace and Safety of the Province and that nothing be by any person Attempted to the subversion of this fframe of Government.

10. That—The Governour and Provincial Council shall at all times settle and order the Situation of all Cities ports and Market towns in every County modelling therein all publick buildings Streets and Market places and shall appoint all necessary roads and highways in the province.

11. That—The Governour and Provincial Council shall at all times have power to inspect the management of the public Treasury and punish those who shall Convert any part thereof to any other use than what hath been Agreed upon by the Governour Provincial Council and General Assembly.

12. That—The Governour and Provincial Council shall Erect and order all publick Schools and incourage and Reward the Authors of usefull Science and Laudable Inventons in the said province.

13. That—For the better management of the powers and Trust aforesaid the Provincial Council shall from time to time divide itself into ffour Distinct and proper Committees for the more Easie Administration of the Affairs of the province which divides the Seventy Two into ffour Eighteens Every one of which Eighteens shall consist of Six out of each of the Three Orders or yearly Eleccons—Each of which shall have a distinct portion of business as followeth A Committee of plantatons to situate and settle cities ports and Markettowns and highways and to hear and decide all Suits and Controversies relating to Plantatons. A Committee of Justice and Safety to secure the peace of the province and punish the Male [mal-] Administration of those who subvert Justice to the prejudice of the publick and private Interest. A Committee of Trade and Treasury who Shall Regulate all Trade and Commerce according to Laws encourage Manufacture and Country-growth and defray the publick Charge of the province. And a Committee of manners Education and Arts that all Wicked and scandalous Living may be prevented and that Youth may be successively trained up in Virtue and useful Knowlledge and Arts. The Quorum of each of which Committees being six that is Two out of each of the three orders or yearly eleccons as aforesaid make a Constant or Standing Council of ffour and Twenty which shall have the power of the Provincial Council being the Quorum of it in all Cases not excepted in the ffifth Article. And in the said committees and standing Council of the Province the Governour or his deputy shall or may preside as aforesaid. And in the Absence of the Governour or his deputy if no one is by either of them appointed the said Committees or Council shall appoint a President for that time and not otherwise and what shall be Resolved at such Committees shall be reported to the said Council of the Province and shall be by them resolved and confirmed before the same shall be put in Execution And that these Respective Committees shall not sit at one and the same time except in Cases of necessity.

14. And to the End that all Laws prepared by the Governour and Provincial Council aforesaid may yet have the more full Concur-

rence of the ffreemen of the Province It is declared granted and confirmed that at the time and place or places for the Choice of a Provincial Council as aforesaid the said FREEMEN shall yearly chuse to serve in a General Assembly as their representatives not exceeding Two hundred persons who shall yearly meet on the Twentieth day of the Second Month in the Capital Town or City of the said province where during Eight days the several members may freely confer with one another and if any of them see meet with a Committee of the Provincial Council consisting of Three out of each of the ffour Committees aforesaid being Twelve in all which shall be at that time purposely appointed to secuir from any of them proposals for the Alteration or Amendment of any of the said proposed and promulgated Bills and on the ninth day from their meeting the said General Assembly after the reading over of the proposed Bills by the Clerk of the Provincial Council and the occasion and motives for them being opened by the Governour or his Deputy shall give their Affirmative or Negative which to them seemeth best in such manner as hereafter is exprest. But not less than two thirds shall make a Quorum in the passing of Laws and Choice of such Officers as are by them to be chosen.

15. THAT—The Laws so prepared and proposed as aforesaid that are Assented to by the General Assembly shall be Enrolled as Laws of the province with this stile by the Governour with the Assent and Approbation of the ffreemen in Provincial Council and General Assembly.

16. THAT—For the better Establishment of the Government and Laws of this province and to the end there may be an Universal Satisfaction in the laying of the ffundamentals thereof the General Assembly shall or may for the ffirst year consist of all the ffreemen of and in the said province and ever after it shall be yearly chosen as aforesaid. Which number of Two hundred shall be enlarged as the Country shall Increase in people So as it do not exceed ffive hundred at any time The Appointment and proportoning of which as also the laying and methodizing of the choice of the Provincial Council and General Assembly in future times most equally to the Division of the Hundreds and Counties which the Country shall hereafter be divided into shall be in the power of the Provincial Council to propose and the General Assembly to resolve.

17. THAT The Governour and the Provincial Council shall from time to time erect Standing Courts of Justice in such places and number as they shall Judge Convenient for the good Government of the said province And that the Provincial Council shall on the Thirteenth day of the First month yearly Elect and present to the Governour or his Deputy a double number of persons to serve for Judges Treasurers Masters of the Rolls within the said province for the year next ensuing. AND the ffreemen of the said province in their County Courts when they shall be erected and till then in the General Assembly shall on the Three and Twentieth day of the Second Month yearly Elect and present to the Governour or his Deputy a double number of persons to serve for Sheriffs Justices of peace and Coronors for the year next ensuing Out of which respective Eleccons and presentments the Governour or his Deputy shall nominate and Commissionate the proper number for each office the Third day after the said respective presentments or else the first named in such present-

ment for each office shall stand and serve for that office the year ensuing.

18. But for as much as the present Conditon of the Province requires some Immediate Setlement and admitts not of so quick a Revoluton of Officers and to the end the said Province may with all Convenient speed be well ordered and settled I William Penn do therefore think fit to nominate and appoint Such persons for Judges Treasurers Masters of Rolls Sheriffs Justices of the peace and Coronors as are most fitly qualified for those imployments To whom I shall make and grant Commissions for the said Offices respectively to hold to them to whom the same shall be granted for so long time as every such person shall well behave himself in the Office or place to him respectively granted and no longer And upon the Decease or displacing of any of the said Officers the Succeeding Officer or Officers shall be chosen as before said.

19. That the General Assembly shall continue so long as may be needful to Impeach Criminals fit to be there Impeached To pass Bills into Laws that they shall think fit to pass into Laws and till such time as the Governour and Provincial Council shall declare that they have nothing further to propose unto them for their Assent and Approbation And that Declaration shall be a Dismiss to the General Assembly for that time Which General Assembly shall be notwithstanding Capable of Assemblying together upon the summons of the Provincial Council at any time during that year if the said Provincial Council shall see occasion for their so Assembling.

20. That—All the Eleccons of Members or Representatives of the people to serve in Provincial Council and General Assembly, and all Questions to be determined by both or either of them that relate to passing of bills into Laws to the choice of Officers to Impeachments made by the General Assembly and Judgment of Criminals upon such Impeachment by the Provincial Council and to all other Cases by them respectively Judged of Importance Shall be resolved and determined by the ballott And unless on suddain and Indispensable Occasions no business in Provincial Council or its respective Committees shall be finally determined the same day that it is moved.

21. And that at all times when and so often as it shall happen that the Governour shall or may be an Infant under the Age of one and Twenty years and no Guardians or Commissioners are appointed in Writing by the ffather of said Infant or that Such Guardians or Commissioners shall be deceased that during such Minority the Provincial Council shall from time to time as they shall see meet Constitute and Appoint Guardians and Commissions not exceeding Three One of which Three shall preside as Deputy and Chief Guardian during such Minority and shall have and Execute with the consent of the other Two all the powers of a Governour in all publick Affairs and Concerns of the said province.

22. That—as often as any day of the month mentoned in any Article of this Charter shall fall on the First day of the Week commonly called the Lord's day the Business appointed for that day shall be differred till the next day unless in Case of Emergency.

23. That—no act Law or Ordinance whatsoever shall at any time hereafter be made or done by the Governour of this Province his heirs or Assigns or by the ffreemen in the Provincial Council or the General Assembly to Alter Change or Diminish the fform or Effect of

this Charter or any part or Clause thereof or contrary to the true Intent and meaning thereof without the Consent of the Governour his heirs or Assigns and six parts of seven of the said ffreemen in Provincial Council and General Assembly.

24. And lastly that I the said William Penn for myself my heirs and Assigns have Solemnly declared granted and confirmed and do hereby solemnly declare grant and confirm that neither I my heirs nor Assigns shall procure or do anything or things whereby the Liberties in this Charter contained and expressed shall be Infringed or broken And if anything be procured by any person or persons contrary to these premises it shall be held of no force or Effect. In witness whereof I the said William Penn have unto this present Charter of Liberties Set my hand and Broad Seal this ffive and Twentieth day of the Second Month vulgarly called April in the year of our Lord One Thousand Six Hundred Eighty and Two.

Wm. Penn.

Signed sealed and delivered by the within named William Penn as his Act and Deed in the presence of

Christopher Taylor
Charles Lloyd
William Gibson
Richard Davies
N. Moore
Tho. Rudyard
Harb. Springett
James Claypoole
Frans Plumsted
Thomas Barker
Philip Ford
Edward Pritchard
Andrew Sowle

FRAME OF GOVERNMENT OF PENNSYLVANIA—1682 *

The frame of the government of the province of Pensilvania, *in* America: *together with certain* laws *agreed upon in* England, *by the Governor and divers freemen of the aforesaid province. To be further explained and confirmed there, by the first provincial Council, that shall be held, if they see meet.*

THE PREFACE

When the great and wise *God* had made the world, of all his creatures, it pleased him to chuse man his Deputy to rule it: and to fit him for so great a charge and trust, he did not only qualify him with skill and power, but with integrity to use them justly. This native goodness was equally his honour and his happiness; and whilst he stood here, all went well; there was no need of coercive or compulsive means; the precept of divine love and truth, in his bosom, was the guide and keeper of his innocency. But lust prevailing against duty, made a lamentable breach upon it; and the law, that before had no power over him, took place upon him, and his disobedient posterity, that such as would not live comformable to the holy law within, should fall under the reproof and correction of the just law without, in a judicial administration.

* From Votes and Proceedings, note *b*, *ante*, p. 3044, pp. xxvii, xxviii.

This the Apostle teaches in divers of his epistles: "The law (says he) was added because of transgression:" In another place, "Knowing that the law was not made for the righteous man; but for the disobedient and ungodly, for sinners, for unholy and prophane, for murderers, for whoremongers, for them that defile themselves with mankind, and for man-stealers, for lyers, for perjured persons," &c., but this is not all, he opens and carries the matter of government a little further: "Let every soul be subject to the higher powers; for there is no power but of *God*. The powers that be are ordained of *God:* whosoever therefore resisteth the power, resisteth the ordinance of *God*. For rulers are not a terror to good works, but to evil: wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same." "He is the minister of God to thee for good." "Wherefore ye must needs be subject, not only for wrath, but for conscience sake."

This settles the divine right of government beyond exception, and that for two ends: first, to terrify evil doers: secondly, to cherish those that do well; which gives government a life beyond corruption, and makes it as durable in the world, as good men shall be. So that government seems to me a part of religion itself, a thing sacred in its institution and end. For, if it does not directly remove the cause, it crushes the effects of evil, and is as such, (though a lower, yet) an emanation of the same Divine Power, that is both author and object of pure religion; the difference lying here, that the one is more free and mental, the other more corporal and compulsive in its operations: but that is only to evil doers; government itself being otherwise as capable of kindness, goodness and charity, as a more private society. They weakly err, that think there is no other use of government, than correction, which is the coarsest part of it: daily experience tells us, that the care and regulation of many other affairs, more soft, and daily necessary, make up much of the greatest part of government; and which must have followed the peopling of the world, had Adam never fell, and will continue among men, on earth, under the highest attainments they may arrive at, by the coming of the blessed *Second Adam*, the *Lord* from heaven. Thus much of government in general, as to its rise and end.

For particular *frames* and *models*, it will become me to say little; and comparatively I will say nothing. My reasons are:

First. That the age is too nice and difficult for it; there being nothing the wits of men are more busy and divided upon. It is true, they seem to agree to the end, to wit, happiness; but, in the means, they differ, as to divine, so to this human felicity; and the cause is much the same, not always want of light and knowledge, but want of using them rightly. Men side with their passions against their reason, and their sinister interests have so strong a bias upon their minds, that they lean to them against the good of the things they know.

Secondly. I do not find a model in the world, that time, place, and some singular emergences have not necessarily altered; nor is it easy to frame a civil government, that shall serve all places alike.

Thirdly. I know what is said by the several admirers of *monarchy*, *aristocracy* and *democracy*, which are the rule of one, a few, and many, and are the three common ideas of government, when men dis-

course on the subject. But I chuse to solve the controversy with this small distinction, and it belongs to all three: *Any government is free to the people under it* (whatever be the frame) *where the laws rule, and the people are a party to those laws*, and more than this is tyranny, oligarchy, or confusion.

But, lastly, when all is said, there is hardly one frame of government in the world so ill designed by its first founders, that, in good hands, would not do well enough; and story tells us, the best, in ill ones, can do nothing that is great or good; witness the *Jewish* and *Roman* states. Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too. Wherefore governments rather depend upon men, than men upon governments. Let men be good, and the government cannot be bad; if it be ill, they will cure it. But, if men be bad, let the government be never so good, they will endeavor to warp and spoil it to their turn.

I know some say, let us have good laws, and no matter for the men that execute them: but let them consider, that though good laws do well, good men do better: for good laws may want good men, and be abolished or evaded [invaded in Franklin's print] by ill men; but good men will never want good laws, nor suffer ill ones. It is true, good laws have some awe upon ill ministers, but that is where they have not power to escape or abolish them, and the people are generally wise and good: but a loose and depraved people (which is the question) love laws and an administration like themselves. That, therefore, which makes a good constitution, must keep it, *viz:* men of wisdom and virtue, qualities, that because they descend not with worldly inheritances, must be carefully propagated by a virtuous education of youth; for which after ages will owe more to the care and prudence of founders, and the successive magistracy, than to their parents, for their private patrimonies.

These considerations of the weight of government, and the nice and various opinions about it, made it uneasy to me to think of publishing the ensuing frame and conditional laws, forseeing both the censures, they will meet with, from men of differing humours and engagements, and the occasion they may give of discourse beyond my design.

But, next to the power of necessity, (which is a solicitor, that will take no denial) this induced me to a compliance, that we have (with reverence to God, and good conscience to men) to the best of our skill, contrived and composed the *frame* and *laws* of this government, to the great end of all government, viz: *To support power in reverence with the people, and to secure the people from the abuse of power;* that they may be free by their just obedience, and the magistrates honourable, for their just administration: for liberty without obedience is confusion, and obedience without liberty is slavery. To carry this evenness is partly owing to the constitution, and partly to the magistracy: where either of these fail, government will be subject to convulsions; but where both are wanting, it must be totally subverted; then where both meet, the government is like to endure. Which I humbly pray and hope *God* will please to make the lot of this of *Pensilvania*. Amen.

WILLIAM PENN.

THE FRAME, &C.—APRIL 25, 1682 *

To all Persons, to whom these presents may come. WHEREAS, king Charles the Second, by his letters patents, under the great seal of *England*, bearing date the fourth day of March in the Thirty and Third Year of the King, for divers considerations therein mentioned, hath been graciously pleased to give and grant unto me *William Penn*, by the name of *William Penn*, Esquire, son and heir of Sir *William Penn*, deceased, and to my heirs and assigns forever, all that tract of land, or Province, called *Pensylvania*, in *America*, with divers great powers, pre-eminences, royalties, jurisdictions, and authorities, necessary for the well-being and government thereof: Now know ye, that for the well-being and government of the said province, and for the encouragement of all the freemen and planters that may be therein concerned, in pursuance of the powers aforementioned, I, the said *William Penn*, have declared, granted, and confirmed, and by these presents, for me, my heirs and assigns, do declare, grant, and confirm unto all the freemen, planters and adventurers of, in and to the said province, these liberties, franchises, and properties, to be held, enjoyed and kept by the freemen, planters, and inhabitants of the said province of *Pensilvania* for ever.

Imprimis. That the government of this province shall, according to the powers of the patent, consist of the Governor and freemen of the said province, in form of a provincial Council and General Assembly, by whom all laws shall be made, officers chosen, and public affairs transacted, as is hereafter respectively declared, that is to say—

II. That the freemen of the said province shall, on the twentieth day of the twelfth month, which shall be in this present year one thousand six hundred eighty and two, meet and assemble in some fit place, of which timely notice shall be before hand given by the Governor or his Deputy; and then, and there, shall chuse out of themselves *seventy-two* persons of most note for their wisdom, virtue and ability, who shall meet, on the tenth day of the first month next ensuing, and always be called, and act as, the provincial Council of the said province.

III. That, at the first choice of such provincial Council, one-third part of the said provincial Council shall be chosen to serve for three years, then next ensuing; one-third part, for two years then next ensuing; and one-third part, for one year then next ensuing such election, and no longer; and that the said third part shall go out accordingly: and on the twentieth day of the twelfth month, as aforesaid, yearly for ever afterwards, the freemen of the said province shall, in like manner, meet and assemble together, and then chuse twenty-four persons, being one-third of the said number, to serve in provincial Council for three years: it being intended, that one-third part of the whole provincial Council (always consisting, and to consist, of seventy-two persons, as aforesaid) falling off yearly, it shall be yearly supplied by such new yearly elections, as aforesaid; and that no one person shall continue therein longer than three years: and, in case any member shall decease before the last election during his time, that then at the next election ensuing his decease, another shall be chosen to supply his place, for the remaining time, he was to have served, and no longer.

* Idem, pp. xxviii–xxxii.

IV. That, after the first seven years, every one of the said third parts, that goeth yearly off, shall be uncapable of being chosen again for one whole year following: that so all may be fitted for government, and have experience of the care and burden of it.

V. That the provincial Council, in all cases and matters of moment, as their arguing upon bills to be passed into laws, erecting courts of justice, giving judgment upon criminals impeached, and choice of officers, in such manner as is hereinafter mentioned, not less than two-thirds of the whole provincial Council shall make a *quorum*, and that the consent and approbation of two-thirds of such *quorum* shall be had in all such cases and matters of moment. And moreover that, in all cases and matters of lesser moment, twenty-four Members of the said provincial Council shall make a *quorum*, the majority of which twenty-four shall, and may, always determine in such cases and causes of lesser moment.

VI. That, in this provincial Council, the Governor or his Deputy, shall or may, always preside, and have a treble voice; and the said provincial Council shall always continue, and sit upon its own adjournments and committees.

VII. That the Governor and provincial Council shall prepare and propose to the General Assembly, hereafter mentioned, all bills, which they shall, at any time, think fit to be passed into laws, within the said province; which bills shall be published and affixed to the most noted places, in the inhabited parts thereof, thirty days before the meeting of the General Assembly, in order to the passing them into laws or rejecting of them, as the General Assembly shall see meet.

VIII. That the Governor and provincial Council shall take care, that all laws, statutes and ordinances, which shall at any time be made within the said province, be duly and diligently executed.

IX. That the Governor and provincial Council shall, at all times, have the care of the peace and safety of the province, and that nothing be by any person attempted to the subversion of this frame of government.

X. That the Governor and provincial Council shall, at all times, settle and order the situation of all cities, ports, and market towns in every county, modelling therein all public buildings, streets, and market places, and shall appoint all necessary roads, and high-ways in the province.

XI. That the Governor and provincial Council shall, at all times, have power to inspect the management of the public treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the Governor, provincial Council, and General Assembly.

XII. That the Governor and provincial Council, shall erect and order all public schools, and encourage and reward the authors of useful sciences and laudable inventions in the said province.

XIII. That, for the better management of the powers and trust aforesaid, the provincial Council shall, from time to time, divide itself into four distinct and proper committees, for the more easy administration of the affairs of the Province, which divides the seventy-two into four eighteens, every one of which eighteens shall consist of six out of each of the three orders, or yearly elections, each of which shall have a distinct portion of business, as followeth: *First*, a committee of

plantations, to situate and settle cities, ports, and market towns, and high-ways, and to hear and decide all suits and controversies relating to plantations. *Secondly*, a committee of justice and safety, to secure the peace of the Province, and punish the mal-administration of those who subvert justice to the prejudice of the public, or private, interest. *Thirdly*, a committee of trade and treasury, who shall regulate all trade and commerce, according to law, encourage manufacture and country growth, and defray the public charge of the Province. And, *Fourthly*, a committee of manners, education, and arts, that all wicked and scandalous living may be prevented, and that youth may be successively trained up in virtue and useful knowledge and arts: the *quorum* of each of which committees being six, that is, two out of each of the three orders, or yearly elections, as aforesaid, make a constant and standing Council of *twenty-four*, which will have the power of the provincial Council, being the quorum of it, in all cases not excepted in the fifth article; and in the said committees, and standing Council of the Province, the Governor, or his Deputy, shall, or may preside, as aforesaid; and in the absence of the Governor, or his Deputy, if no one is by either of them appointed, the said committees or Council shall appoint a President for that time, and not otherwise; and what shall be resolved at such committees, shall be reported to the said Council of the province, and shall be by them resolved and confirmed before the same shall be put in execution; and that these respective committees shall not sit at one and the same time, except in cases of necessity.

XIV. And, to the end that all laws prepared by the Governor and provincial Council aforesaid, may yet have the more full concurrence of the freemen of the province, it is declared, granted and confirmed, that, at the time and place or places, for the choice of a provincial Council, as aforesaid, the said freemen shall yearly chuse Members to serve in a General Assembly, as their representatives, not exceeding two hundred persons, who shall yearly meet on the twentieth day of the second month, which shall be in the year one thousand six hundred eighty and three following, in the capital town, or city, of the said province, where, during eight days, the several Members may freely confer with one another; and, if any of them see meet, with a committee of the provincial Council (consisting of three out of each of the four committees aforesaid, being twelve in all) which shall be, at that time, purposely appointed to receive from any of them proposals, for the alterations or amendment of any of the said proposed and promulgated bills: and on the ninth day from their so meeting, the said General Assembly, after reading over the proposed bills by the Clerk of the provincial Council, and the occasions and motives for them being opened by the Governor or his Deputy, shall give their affirmative or negative, which to them seemeth best, in such manner as hereinafter is expressed. But not less than two-thirds shall make a *quorum* in the passing of laws, and choice of such officers as are by them to be chosen.

XV. That the laws so prepared and proposed, as aforesaid, that are assented to by the General Assembly, shall be enrolled as laws of the Province, with this stile: *By the Governor, with the assent and approbation of the freemen in provincial Council and General Assembly.*

XVI. That, for the establishment of the government and laws of this province, and to the end there may be an universal satisfaction in the laying of the fundamentals thereof: the General Assembly shall, or may, for the first year, consist of all the freemen of and in the said province; and ever after it shall be yearly chosen, as aforesaid; which number of two hundred shall be enlarged as the country shall increase in people, so as it do not exceed five hundred, at any time; the appointment and proportioning of which, as also the laying and methodizing of the choice of the provincial Council and General Assembly, in future times, most equally to the divisions of the hundreds and counties, which the country shall hereafter be divided into, shall be in the power of the provincial Council to propose, and the General Assembly to resolve.

XVII. That the Governor and the provincial Council shall erect, from time to time, standing courts of justice, in such places and number as they shall judge convenient for the good government of the said province. And that the provincial Council shall, on the thirteenth day of the first month, yearly, elect and present to the Governor, or his Deputy, a double number of persons, to serve for Judges, Treasurers, Masters of Rolls, within the said province, for the year next ensuing; and the freemen of the said province, in the county courts, when they shall be erected, and till then, in the General Assembly, shall, on the three and twentieth day of the second month, yearly, elect and present to the Governor, or his Deputy, a double number of persons, to serve for Sheriffs, Justices of the Peace, and Coroners, for the year next ensuing: out of which respective elections and presentments, the Governor or his Deputy shall nominate and commissionate the proper number for each office, the third day after the said presentments, or else the first named in such presentment, for each office, shall stand and serve for that office the year ensuing.

XVIII. But forasmuch as the present condition of the province requires some immediate settlement, and admits not of so quick a revolution of officers; and to the end the said Province may, with all convenient speed, be well ordered and settled, I, *William Penn*, do therefore think fit to nominate and appoint such persons for Judges, Treasurers, Masters of the Rolls, Sheriffs, Justices of the Peace, and Coroners, as are most fitly qualified for those employments; to whom I shall make and grant commissions for the said offices, respectively, to hold to them, to whom the same shall be granted, for so long time as every such person shall well behave himself in the office, or place, to him respectively granted, and no longer. And upon the decease or displacing of any of the said officers, the succeeding officer, or officers, shall be chosen, as aforesaid.

XIX. That the General Assembly shall continue so long as may be needful to impeach criminals, fit to be there impeached, to pass bills into laws, that they shall think fit to pass into laws, and till such time as the Governor and provincial Council shall declare that they have nothing further to propose unto them, for their assent and approbation: and that declaration shall be a dismiss to the General Assembly for that time; which General Assembly shall be, notwithstanding, capable of assembling together upon the summons of the provincial Council, at any time during that year, if the said provincial Council shall see occasion for their so assembling.

XX. That all the elections of members, or representatives of the people, to serve in provincial Council and General Assembly, and all questions to be determined by both, or either of them, that relate to passing of bills into laws, to the choice of officers, to impeachments by the General Assembly, and judgment of criminals upon such impeachments by the provincial Council, and to all other cases by them respectively judged of importance, shall be resolved and determined by the ballot; and unless on sudden and indispensible occasions, no business in provincial Council, or its respective committees, shall be finally determined the same day that it is moved.

XXI. That at all times when, and so often as it shall happen that the Governor shall or may be an infant, under the age of one and twenty years, and no guardians or commissioners are appointed in writing, by the father of the said infant, or that such guardians or commissioners, shall be deceased; that during such minority, the provincial Council shall, from time to time, as they shall see meet, constitute and appoint guardians or commissioners, not exceeding three; one of which three shall preside as deputy and chief guardian, during such minority, and shall have and execute, with the consent of the other two, all the power of a Governor, in all the public affairs and concerns of the said province.

XXII. That, as often as any day of the month, mentioned in any article of this charter, shall fall upon the first day of the week, commonly called the *Lord's Day*, the business appointed for that day shall be deferred till the next day, unless in case of emergency.

XXIII. That no act, law, or ordinance whatsoever, shall at any time hereafter, be made or done by the Governor of this province, his heirs or assigns, or by the freemen in the provincial Council, or the General Assembly, to alter, change, or diminish the form, or effect, of this charter, or any part, or clause thereof, without the consent of the Governor, his heirs, or assigns, and six parts of seven of the said freemen in provincial Council and General Assembly.

XXIV. And lastly, that I, the said *William Penn*, for myself, my heirs and assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, that neither I, my heirs, nor assigns, shall procure or do any thing or things, whereby the liberties, in this charter contained and expressed, shall be infringed or broken; and if any thing be procured by any person or persons contrary to these premises, it shall be held of no force or effect. In witness whereof, I, the said *William Penn*, have unto this present character of liberties set my hand and broad seal, this five and twentieth day of the second month, vulgarly called April, in the year of our *Lord* one thousand six hundred and eighty-two.

WILLIAM PENN.

LAWS AGREED UPON IN ENGLAND, &C.*

I. That the charter of liberties, declared, granted and confirmed the five and twentieth day of the second month, called April, 1682, before divers witnesses, by *William Penn*, Governor and chief Proprietor of *Pensilvania*, to all the freemen and planters of the said province, is hereby declared and approved, and shall be for ever held for funda-

* Idem. pp. XXXII–XXXV.

mental in the government thereof, according to the limitations mentioned in the said charter.

II. That every inhabitant in the said province, that is or shall be, a purchaser of one hundred acres of land, or upwards, his heirs and assigns, and every person who shall have paid his passage, and taken up one hundred acres of land, at one penny an acre, and have cultivated ten acres thereof, and every person, that hath been a servant, or bonds-man, and is free by his service, that shall have taken up his fifty acres of land, and cultivated twenty thereof, and every inhabitant, artificer, or other resident in the said province, that pays scot and lot to the government; shall be deemed and accounted a freeman of the said province: and every such person shall, and may, be capable of electing, or being elected, representatives of the people, in provincial Council, or General Assembly, in the said province.

III. That all elections of members, or representatives of the people and freemen of the province of *Pensilvania*, to serve in provincial Council, or General Assembly, to be held within the said province, shall be free and voluntary: and that the elector, that shall receive any reward or gift, in meat, drink, monies, or otherwise, shall forfeit his right to elect; and such person as shall directly or indirectly give, promise, or bestow any such reward as aforesaid, to be elected, shall forfeit his election, and be thereby incapable to serve as aforesaid: and the provincial Council and General Assembly shall be the sole judges of the regularity, or irregularity of the elections of their own respective Members.

IV. That no money or goods shall be raised upon, or paid by, any of the people of this province by way of public tax, custom or contribution, but by a law, for that purpose made; and whoever shall levy, collect, or pay any money or goods contrary thereunto, shall be held a public enemy to the province and a betrayer of the liberties of the people thereof.

V. That all courts shall be open, and justice shall neither be sold, denied nor delayed.

VI. That, in all courts all persons of all persuasions may freely appear in their own way, and according to their own manner, and there personally plead their own cause themselves; or, if unable, by their friends: and the first process shall be the exhibition of the complaint in court, fourteen days before the trial; and that the party, complained against, may be fitted for the same, he or she shall be summoned, no less than ten days before, and a copy of the complaint delivered him or her, at his or her dwelling house. But before the complaint of any person be received, he shall solemnly declare in court, that he believes, in his conscience, his cause is just.

VII. That all pleadings, processes and records in courts, shall be short, and in *English*, and in an ordinary and plain character, that they may be understood, and justice speedily administered.

VIII. That all trials shall be by twelve men, and as near as may be, peers or equals, and of the neighborhood, and men without just exception; in cases of life, there shall be first twenty-four returned by the sheriffs, for a grand inquest, of whom twelve, at least, shall find the complaint to be true; and then the twelve men, or peers, to be likewise returned by the sheriff, shall have the final judgment. But reasonable challenges shall be always admitted against the said twelve men, or any of them.

IX. That all fees in all cases shall be moderate, and settled by the provincial Council, and General Assembly, and be hung up in a table in every respective court; and whosoever shall be convicted of taking more, shall pay twofold, and be dismissed his employment; one moiety of which shall go to the party wronged.

X. That all prisons shall be work-houses, for felons, vagrants, and loose and idle persons; whereof one shall be in every county.

XI. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or the presumption great.

XII. That all persons wrongfully imprisoned, or prosecuted at law, shall have double damages against the informer, or prosecutor.

XIII. That all prisons shall be free, as to fees, food and lodging.

XIV. That all lands and goods shall be liable to pay debts, except where there is legal issue, and then all the goods, and one-third of the land only.

XV. That all wills, in writing, attested by two witnesses, shall be of the same force as to lands, as other conveyances, being legally proved within forty days, either within or without the said province.

XVI. That seven years quiet possession shall give an unquestionable right, except in cases of infants, lunatics, married women, or persons beyond the seas.

XVII. That all briberies and extortion whatsoever shall be severely punished.

XVIII. That all fines shall be moderate, and saving men's contenements, merchandize, or wainage.

XIX. That all marriages (not forbidden by the law of God, as to nearness of blood and affinity by marriage) shall be encouraged; but the parents, or guardians, shall be first consulted, and the marriage shall be published before it be solemnized; and it shall be solemnized by taking one another as husband and wife, before credible witnesses; and a certificate of the whole, under the hands of parties and witnesses, shall be brought to the proper register of that county, and shall be registered in his office.

XX. And, to prevent frauds and vexatious suits within the said province, that all charters, gifts, grants, and conveyances of and (except leases for a year or under) and all bills, bonds, and specialties above five pounds, and not under three months, made in the said province, shall be enrolled, or registered in the public enrolment office of the said province, within the space of two months next after the making thereof, else to be void in law, and all deeds, grants, and conveyances of land (except as aforesaid) within the said province, and made out of the said province, shall be enrolled or registered, as aforesaid, within six months next after the making thereof, and settling and constituting an enrolment office or registry within the said province, else to be void in law against all persons whatsoever.

XXI. That all defacers or corrupters of charters, gifts, grants, bonds, bills, wills, contracts, and conveyances, or that shall deface or falsify any enrolment, registry or record, within this province, shall make double satisfaction for the same; half whereof shall go to the party wronged, and they shall be dismissed of all places of trust, and be publicly disgraced as false men.

XXII. That there shall be a register for births, marriages, burials, wills, and letters of administration, distinct from the other registry.

XXIII. That there shall be a register for all servants, where their names, time, wages, and days of payment shall be registered.

XXIV. That all lands and goods of felons shall be liable, to make satisfaction to the party wronged twice the value; and for want of lands or goods, the felons shall be bondmen to work in the common prison, or work-house, or otherwise, till the party injured be satisfied.

XXV. That the estates of capital offenders, as traitors and murderers, shall go, one-third to the next of kin to the sufferer, and the remainder to the next of kin to the criminal.

XXVI. That all witnesses, coming, or called, to testify their knowledge in or to any matter or thing, in any court, or before any lawful authority, within the said province, shall there give or deliver in their evidence, or testimony, by solemnly promising to speak the truth, the whole truth, and nothing but the truth, to the matter, or thing in question. And in case any person so called to evidence, shall be convicted of wilful falsehood, such person shall suffer and undergo such damage or penalty, as the person, or persons, against whom he or she bore false witness, did, or should, undergo: and shall also make satisfaction to the party wronged, and be publicly exposed as a false witness, never to be credited in any court, or before any Magistrate, in the said province.

XXVII. And, to the end that all officers chosen to serve within this province, may, with more care and diligence, answer the trust reposed in them, it is agreed, that no such person shall enjoy more than one public office, at one time.

XXVIII. That all children, within this province, of the age of twelve years, shall be taught some useful trade or skill, to the end none may be idle, but the poor may work to live, and the rich, if they become poor, may not want.

XXIX. That servants be not kept longer than their time, and such as are careful, be both justly and kindly used in their service, and put in fitting equipage at the expiration thereof, according to custom.

XXX. That all scandalous and malicious reporters, backbiters, defamers and spreaders of false news, whether against Magistrates, or private persons, shall be accordingly severely punished, as enemies to the peace and concord of this province.

XXXI. That for the encouragement of the planters and traders in this province, who are incorporated into a society, the patent granted to them by *William Penn*, Governor of the said province, is hereby ratified and confirmed.

XXXII. * * *

XXXIII. That all factors or correspondents in the said province, wronging their employers, shall make satisfaction, and one-third over, to their said employers: and in case of the death of any such factor or correspondent, the committee of trade shall take care to secure so much of the deceased party's estate as belongs to his said respective employers.

XXXIV. That all Treasurers, Judges, Masters of the Rolls, Sheriffs, Justices of the Peace, and other officers and persons whatsoever, relating to courts, or trials of causes, or any other service in the government; and all Members elected to serve in provincial Council and General Assembly, and all that have right to elect such Members,

shall be such as possess faith in Jesus Christ, and that are not convicted of ill fame, or unsober and dishonest conversation, and that are of one and twenty years of age, at least; and that all such so qualified, shall be capable of the said several employments and privileges, as aforesaid.

XXXV. That all persons living in this province, who confess and acknowledge the one Almighty and eternal God, to be the Creator, Upholder and Ruler of the world; and that hold themselves obliged in conscience to live peaceably and justly in civil society, shall, in no ways, be molested or prejudiced for their religious persuasion, or practice, in matters of faith and worship, nor shall they be compelled, at any time, to frequent or maintain any religious worship, place or ministry whatever.

XXXVI. That, according to the good example of the primitive Christians, and the case of the creation, every first day of the week, called the Lord's day, people shall abstain from their common daily labour, that they may the better dispose themselves to worship God according to their understandings.

XXXVII. That as a careless and corrupt administration of justice draws the wrath of God upon magistrates, so the wildness and looseness of the people provoke the indignation of God against a country: therefore, that all such offences against God, as swearing, cursing, lying, prophane talking, drunkenness, drinking of healths, obscene words, incest, sodomy, rapes, whoredom, fornication, and other uncleanness (not to be repeated) all treasons, misprisions, murders, duels, felony, seditions, maims, forcible entries, and other violences, to the persons and estates of the inhabitants within this province; all prizes, stage-plays, cards, dice, May-games, gamesters, masques, revels, bull-baitings, cock-fightings, bear-baitings, and the like, which excite the people to rudeness, cruelty, looseness, and irreligion, shall be respectively discouraged, and severely punished, according to the appointment of the Governor and freemen in provincial Council and General Assembly; as also all proceedings contrary to these laws, that are not here made expressly penal.

XXXVIII. That a copy of these laws shall be hung up in the provincial Council, and in public courts of justice: and that they shall be read yearly at the opening of every provincial Council and General Assembly, and court of justice; and their assent shall be testified, by their standing up after the reading thereof.

XXXIX. That there shall be, at no time, any alteration of any of these laws, without the consent of the Governor, his heirs, or assigns, and six parts of seven of the freemen, met in provincial Council and General Assembly.

XL. That all other matters and things not herein provided for, which shall, and may, concern the public justice, peace or safety of the said province; and the raising and imposing taxes, customs, duties, or other charges whatsoever, shall be, and are, hereby referred to the order, prudence and determination of the Governor and freemen, in provincial Council and General Assembly, to be held, from time to time, in the said province.

Signed and sealed by the Governor and freemen aforesaid, the fifth day of the third month, called *May*, one thousand six hundred and eighty-two.

FRAME OF GOVERNMENT OF PENNSYLVANIA—1683 *

The Frame of the Government of the Province of Pennsylvania *and Territories thereunto annexed, in* America.

To *all persons*, to whom these presents may come. *Whereas* king *Charles* the Second, by his letters patents, under the great seal of *England*, bearing date the fourth day of March, in the thirty and third year of the king, for divers considerations therein mentioned, hath been graciously pleased to give and grant unto me *William Penn* (by the name of *William Penn*, Esquire, son and heir of Sir *William Penn*, deceased) and to my heirs and assigns for ever, all that tract of land or province called *Pennsylvania*, in *America*, with divers great powers, preheminencies, royalties, jurisdictions and authorities, necessary for the well-being and government thereof. And *whereas*, the king's dearest brother *James*, duke of *York* and *Albany*, &c., by his deeds of feoffment, under his hand and seal, duly perfected, bearing date the four and twentieth day of August, one thousand six hundred eighty and two, did grant unto me, my heirs and assigns, all that tract of land, lying and being from twelve miles northward of *Newcastle*, upon Delaware river, in *America*, to Cape Hinlopen, upon the said river and bay of *Delaware* southward, together with all royalties, franchises, duties, jurisdictions, liberties and privileges thereunto belonging.

Now know ye, That for the well-being and good government of the said province and territories thereunto annexed, and for the encouragement of all the freemen and planters, that may be therein concerned, in pursuance of the rights and powers aforementioned, I, the said *William Penn*, have declared, granted, and confirmed, and by these presents, for me, my heirs and assigns, do declare, grant and confirm unto all the freemen, planters and adventurers of, in and to the said province and territories thereof, these liberties, franchises and properties, so far as in me lieth, to be held, enjoyed and kept by the freemen, planters and adventurers of and in the said province of *Pennsylvania*, and territories thereunto annexed, for ever.

Imprimis, That the government of this province and territories thereof, shall, from time to time, according to the powers of the patent and deeds of feoffment aforesaid, consist of the Proprietary and Governor, and freemen of the said province and territories thereof, in form of provincial Council and General Assembly; which provincial Council shall consist of eighteen persons, being three out of each county, and which Assembly shall consist of thirty-six persons, being six out of each county, men of most note for their virtue, wisdom and ability; by whom all laws shall be made, officers chosen, and public affairs transacted, as is hereafter limited and declared.

II. There being three persons already chosen for every respective county of this province and territories thereof, to serve in the provincial Council, one of them for three years; one for two years, and one for one year; and one of them to go off yearly, in every county; that on the tenth day of the first month yearly, for ever after, the freemen of the said province and territories thereof, shall meet

* Idem, Appendix, IV–VII.

together, in the most convenient place, in every county of this province and territories thereof, then and there to chuse one person, qualified as aforesaid, in every county, being one-third of the number to serve in provincial Council, for three years; it being intended, that one-third of the whole provincial Council, consisting and to consist of eighteen persons, falling off yearly, it shall be yearly supplied with such yearly elections, as aforesaid; and that one person shall not continue in longer than three years; and in case any member shall decease before the last election, during his time, that then, at the next election ensuing his decease, another shall be chosen to supply his place for the remaining time he was to have served, and no longer.

III. That, after the first seven years, every one of the said third parts, that goeth yearly off, shall be incapable of being chosen again for one whole year following, that so all that are capable and qualified, as aforesaid, may be fitted for government, and have a share of the care and burden of it.

IV. That the provincial Council in all cases and matters of moment, as their arguing upon bills to be passed into laws, or proceedings about erecting of courts of justice, sitting in judgment upon criminals impeached, and choice of officers, in such manner as is herein after expressed, not less than two-thirds of the whole shall make a *quorum;* and that the consent and approbation of two-thirds of that quorum shall be had in all such cases, or matters, of moment: and that, in all cases and matters of lesser moment, one-third of the whole shall make a *quorum*, the majority of which shall and may always determine in such cases and causes of lesser moment.

V. That the Governor and provincial Council shall have the power of preparing and proposing to the Assembly, hereafter mentioned, all bills, which they shall see needful, and that shall, at any time, be past into laws, within the said province and territories thereof, which bills shall be published and affixed to the most noted places, in every county of this province and territories thereof, twenty days before the meeting of the Assembly, in order to passing them into laws.

VI. That the Governor and provincial Council shall take care that all laws, statutes and ordinances, which shall, at any time, be made within the said province and territories, be duly and diligently executed.

VII. That the Governor and provincial Council shall, at all times, have the care of the peace and safety of this province and territories thereof; and that nothing be, by any person, attempted, to the subversion of this frame of government.

VIII. That the Governor and provincial Council shall, at all times, settle and order the situation of all cities, and market towns, in every county, modelling therein all public buildings, streets and market places; and shall appoint all necessary roads and highways, in this province and territories thereof.

IX. That the Governor and provincial Council shall, at all times, have power to inspect the management of the public treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the Governor, provincial Council and Assembly.

X. That the Governor and provincial Council shall erect and order all public schools, and encourage and reward the authors of useful sciences and laudable inventions in the said province and territories thereof.

XI. That one-third part of the provincial Council, residing with the Governor, from time to time, shall with the Governor have the care of the management of public affairs, relating to the peace, justice, treasury and improvement of the province and territories, and to the good education of youth, and sobriety of the manners of the inhabitants therein, as aforesaid.

XII. That the Governor, or his Deputy, shall always preside in the provincial Council, and that he shall, at no time, therein perform any public act of state whatsoever, that shall, or may, relate unto the justice, trade, treasury, or safety of the province and territories as aforesaid, but by and with the advice and consent of the provincial Council thereof.

XIII. And to the end that all bills prepared and agreed by the Governor and provincial Council, as aforesaid, may yet have the more full concurrence of the freemen of the province and territories thereof, it is declared, granted and confirmed, that, at the time and place in every county for the choice of one person to serve in provincial Council, as aforesaid, the respective Members thereof, at their said meeting, shall yearly chuse out of themselves six persons of most note, for virtue, wisdom and ability, to serve in Assembly, as their representatives, who shall yearly meet on the tenth day of the third month, in the capital town or city of the said province, unless the Governor and provincial Council shall think fit to appoint another place to meet in, where, during eight days, the several Members may confer freely with one another; and if any of them see meet, with a committee of the provincial Council, which shall be, at that time, purposely appointed, to receive from any of them proposals for the alterations, or amendments, of any of the said proposed and promulgated bills; and on the ninth day from their so meeting, the said Assembly, after their reading over the proposed bills, by the Clerk of the provincial Council, and the occasions and motives for them being opened by the Governor or his Deputy, shall, upon the question by him put, give their affirmative or negative, which to them seemeth best, in such manner as is hereafter expressed: but not less than two-thirds shall make a *quorum* in the passing of all bills into laws, and choice of such officers as are by them to be chosen.

XIV. That the laws so prepared and proposed, as aforesaid, that are assented to by the Assembly, shall be enrolled as laws of this province and territories thereof, with this stile: *By the Governor, with the assent and approbation of the freemen in provincial Council and Assembly met*, and from henceforth the meetings, sessions, acts, and proceedings of the Governor, provincial Council and Assembly, shall be stiled and called, *The meeting, sessions and proceedings of the General Assembly of the province of Pennsylvania, and the territories thereunto belonging.*

XV. And that the representatives of the people in provincial Council and Assembly, may, in after ages, bear some proportion with the increase and multiplying of the people, the number of such representatives of the people may be, from time to time, increased and enlarged, so as at no time, the number exceeds seventy-two for the

provincial Council, and two hundred for the Assembly; the appointment and proportion of which number, as also the laying and methodizing of the choice of such representatives in future time, most equally to the division of the country, or number of the inhabitants, is left to the Governor and provincial Council to propose, and the Assembly to resolve, so that the order of proportion be strictly observed, both in the choice of the Council and the respective committees thereof, *viz.:* one third to go off, and come in yearly.

XVI. That from and after the death of this present Governor, the provincial Council shall, together with the succeeding Governor, erect, from time to time, standing courts of justice, in such places and number as they shall judge convenient for the good government of the said province and territories thereof; and that the provincial Council shall, on the thirteenth day of the second month then next ensuing, elect and present to the Governor, or his Deputy, a double number of persons, to serve for Judges, Treasurers, and Masters of the Rolls, within the said province and territories, to continue so long as they shall well behave themselves, in those capacities respectively; and the freemen of the said province, in an Assembly met on the thirteenth day of the third month, yearly, shall elect and then present to the Governor, or his Deputy, a double number of persons to serve for Sheriffs, Justices of the Peace, and Coroners, for the year next ensuing; out of which respective elections and presentments, the Governor, or his Deputy, shall nominate and commissionate the proper number for each office, the third day after the said respective presentments; or else the first named in such presentment, for each office, as aforesaid, shall stand and serve in that office, the time before respectively limited; and in case of death or default, such vacancy shall be supplied by the Governor and provincial Council in manner aforesaid.

XVII. That the Assembly shall continue so long as may be needful to impeach criminals, fit to be there impeached, to pass such bills into laws as are proposed to them, which they shall think fit to pass into laws, and till such time as the Governor and provincial Council shall declare, that they have nothing further to propose unto them, for their assent and approbation, and that declaration shall be a dismiss to the assembly, for that time; which Assembly shall be, notwithstanding, capable of assembling together, upon the summons of the Governor and provincial Council, at any time, during that year, if the Governor and provincial Council shall see occasion for their so assembling.

XVIII. That all the elections of members, of representatives of the people to serve in provincial Council and Assembly, and all questions to be determined by both or either of them, that relate to choice of officers, and all, or any other personal matters, shall be resolved or determined by the *ballot*, and all things relating to the preparing and passing of bills into laws, shall be openly declared and resolved by the vote.

XIX. That, at all times, when the Proprietary and Governor shall happen to be an infant, and under the age of one and twenty years, and no guardians or commissioners are appointed in writing, by the father of the said infant, or that such guardian shall be deceased, that during such minority, the provincial Council shall, from time to time, as they shall see meet, constitute and appoint guardians and commissioners, not exceeding three, one of which shall preside as

deputy, and chief guardian, during such minority, and shall have and execute, with the consent of one of the other two, all the power of a Governor, in all public affairs and concerns of the said province and territories thereof, according to charter; which said guardian so appointed, shall also have the care and oversight of the estate of the said minor, and be yearly accountable and responsible for the same to the provincial Council, and the provincial Council to the minor, when of age, or to the next heir, in case of the minor's death, for the trust before expressed.

XX. That as often as any days of the month mentioned in any article of this charter, shall fall upon the first day of the week, commonly called the *Lord's* day, the business appointed for that day, shall be deferred until the next day, unless in cases of emergency.

XXI. And, for the satisfaction and encouragement of all aliens, I do give and grant, that, if any alien, who is, or shall be a purchaser, or who doth, or shall, inhabit in this province or territories thereof, shall decease at any time before he can well be naturalized, his right and interest therein shall notwithstanding descend to his wife and children, or other his relations, be he testate, or intestate, according to the laws of this province or territories thereof, in such cases provided, in as free and ample manner, to all intents and purposes, as if the said alien had been naturalized.

XXII. And that the inhabitants of this province and territories thereof may be accommodated with such food and sustenance, as God, in His providence, hath freely afforded, I do also further grant to the inhabitants of this province and territories thereof, liberty to fowl and hunt upon the lands they hold, and all other lands therein not inclosed; and to fish, in all waters in the said lands, and in all rivers and rivulets in, and belonging to, this province and territories thereof, with liberty to draw his or their fish on shore on any man's lands, so as it be not to the detriment, or annoyance of the owner thereof, except such lands as do lie upon inland rivulets that are not boatable, or which are, or may be hereafter erected into manors.

XXIII. And that all the inhabitants of this province and territories thereof, whether purchasers or others, may have the last worldly pledge of my good and kind intentions to them and theirs, I do give, grant and confirm to all and every one of them, full and quiet possession of their respective lands, to which they have any lawful or equitable claim, saving only such rents and services for the same, as are, or customarily ought to be, reserved to me, my heirs or assigns.

XXIV. That no act, law, or ordinance whatsoever, shall, at any time hereafter, be made or done by the Proprietary and Governor of this province, and territories thereunto belonging, his heirs or assigns, or by the freemen in provincial Council or Assembly, to alter, change or diminish the form or effect of this charter, or any part or clause thereof, contrary to the true intent and meaning thereof, without the consent of the Proprietary and Governor, his heirs or assigns, and six parts of seven of the said freemen in provincial Council and Assembly met.

XXV. And lastly, I, the said *William Penn*, Proprietary and Governor of the province of *Pennsylvania*, and territories thereunto belonging, for me, my heirs and assigns, have solemnly declared, granted and confirmed, and do hereby solmnly declare, grant and

confirm, that neither I, my heirs nor assigns, shall procure, or do, any thing or things, whereby the liberties, in this charter contained and expressed, shall be infringed or broken: and if any thing be procured, by any person or persons, contrary to these premises, it shall be held of no force or effect. In witness whereof, I, the said *William Penn*, at *Philadelphia*, in *Pennsylvania*, have unto this present charter of liberties set my hand and broad seal, this second day of the second month, in the year of our Lord one thousand six hundred and eighty and three, being the five and thirtieth year of the king, and the third year of my government.

WILLIAM PENN.

This within *charter*, which we have distinctly heard read and thankfully received, shall be by us inviolably kept, at *Philadelphia*, the second day of the second month, one thousand six hundred eighty and three.

The Members of the provincial Council present:

William Markham,
John Moll,
William Haige,
Christopher Taylor,
John Simcock,
William Clayton,
Francis Whittwel,
Thomas Holme,
William Clark,
William Biles,
James Harrison,
John Richardson,
Philip Thomas Lenman, *Secr. Gov.*
Richard Ingelo, *Cl. Coun.*

The Members of the Assembly present:

Casparus Harman,
John Darby,
Benjamin Williams,
William Guest,
Valentine Hollingsworth,
James Boyden,
Bennony Bishop,
John Beazor,
John Harding,
Andrews Bringston,
Simon Irons,
John Wood,
John Curtis,
Daniel Brown,
William Futcher,
John Kipshaven,
Alexander Molestine,
Robert Bracy, senior,
Thomas Bracy,
William Yardly,
John Hastings,
Robert Wade,
Thomas Hassald,
John Hart,
Robert Hall,
Robert Bedwell,
William Simsmore,
Samuel Darke,
Robert Lucas,
James Williams,
John Blunston,
John Songhurst,
John Hill,
Nicholas Waln,
Thomas Fitzwater,
John Clows,
Luke Watson,
Joseph Phipps,
Dennis Rotchford,
John Brinklair,
Henry Bowman,
Cornelius Verhoofe,
John Southworth, *Cl. Synod.*

Some of the inhabitants of Philadelphia present:

William Howell,
Edmund Warner,
Henry Lewis,
Samuel Miles.

FRAME OF GOVERNMENT OF PENNSYLVANIA—1696 *

The Frame of Government of the Province of Pennsylvania, *and the territories thereunto belonging; passed by Governor Markham, November 7, 1696*

WHEREAS, the late king Charles the Second, in the three and thirtieth year of his reign, by letters patent under the great seal of *England*, did, for the considerations therein mentioned, grant unto *William Penn*, his heirs and assigns, for ever, this colony, or tract of land, thereby erecting the same into a province, called *Pennsylvania*, and constituting him, the said *William Penn*, absolute Proprietary thereof, vesting him, his Deputies and Lieutenants, with divers great powers, pre-eminences, royalties, jurisdictions and authorities, necessary for the well-being and good government of the said province. And whereas the late Duke of *York* and *Albany*, &c., for valuable considerations, did grant unto the said *William Penn*, his heirs and assigns, all that tract of land which hath been cast, or divided into three counties, now called *Newcastle*, *Kent*, and *Sussex*, together with all royalties, franchises, duties, jurisdictions, liberties and privileges thereunto belonging; which last mentioned tract being intended as a beneficial and requisite addition to the territory of the said Proprietary, he, the said Proprietary and Governor, at the request of the freemen of the said three counties, by their deputies, in Assembly met, with the representatives of the freemen of the said province at *Chester*, alias *Upland*, on the sixth day of the tenth month, 1682, did (with the advice and consent of the Members of the said Assembly) enact, that the said three counties should be annexed to the province of *Pennsylvania*, as the proper territories thereof: and whereas king *William* and the late queen *Mary*, over *England*, &c., by their letters patent and commission, under the great seal of *England*, dated the twenty-first day of October, in the fourth year of their reign, having, (for the reasons therein mentioned) taken the government of this said province and territories into their hands, and under their care and protection, did think fit to constitute *Benjamin Fletcher*, Governor of New York, to be their Captain General, and Governor in Chief, over this province and country. And whereas, also the said king and queen afterwards, by their letters patent, under the great seal of *England*, dated the twentieth day of August, in the sixth year of their reign, have thought fit, upon the humble application of the said *William Penn*, to restore him to the administration of the government of the said province and territories; and that so much of their said commission as did constitute the said *Benjamin Fletcher*, their Captain General and Governor in Chief of the said province of *Pennsylvania*, country of *Newcastle*, and the territories and tracts of land depending thereupon, in *America*, together with all the powers and authorities thereby granted for the ruling and governing their said province and country, should, from the publication of the said last recited letters patent, cease, determine and become void; and accordingly the same are hereby declared void; whereupon the said *William Penn* did commissionate his kinsman, *William Markham*, Governor under him,

* Idem. Appendix, VIII–XII.

with directions to act according to the known laws and usages of this government.

Now, forasmuch as the former frame of government, modelled by act of settlement, and charter of liberties, is not deemed, in all respects, suitably accommodated to our present circumstances, therefore it is unanimously desired that it may be enacted, And be it enacted by the Governor aforesaid, with the advice and consent of the representatives of the freemen of the said province and territories, in Assembly met, and by the authority of the same, that this government shall, from time to time, consist of the Governor, or his Deputy, or Deputies, and the freemen of the said province, and territories thereof, in form of a Council and Assembly; which Council and Assembly shall be men of most note for virtue, wisdom and ability; and shall, from and after the tenth day of the first month next, consist of two persons out of each of the counties of this government, to serve as the people's representatives in Council; and of four persons out of each of the said counties, to serve as their representatives in Assembly; for the electing of which representatives, it shall and may be lawful to and for all the freemen of this province and territory aforesaid, to meet together on the tenth day of the first month yearly hereafter, in the most convenient and usual place for election, within the respective counties, then and there to chuse their said representatives as aforesaid, who shall meet on the tenth day of the third month yearly, in the capital town of the said province, unless the Governor and Council shall think fit to appoint another place.

And, to the end it may be known who those are, in this province and territories, who ought to have right of, or to be deemed freemen, to chuse, or be chosen, to serve in Council and Assembly, as aforesaid, Be it enacted by the authority aforesaid, That no inhabitant of this province or territories, shall have right of electing, or being elected as aforesaid, unless they be free denizens of this government, and are of the age of twenty-one years, or upwards, and have fifty acres of land, ten acres whereof being seated and cleared, or be otherwise worth *fifty pounds*, lawful money of this government, clear estate, and have been resident within this government for the space of two years next before such election.

And whereas divers persons within this government, cannot, for conscience sake, take an oath, upon any account whatsoever, Be it therefore enacted by the authority aforesaid, That all and every such person and persons, being, at any time hereafter, required, upon any lawful occasion, to give evidence, or take an oath, in any case whatsoever, shall, instead of swearing, be permitted to make his, or their solemn affirmation, attest, or declaration, which shall be adjudged, and is hereby enacted and declared to be of the same force and effect, to all intents and purposes whatsoever, as if they had taken an oath; and in case any such person or persons shall be lawfully convicted of having wilfully and corruptly affirmed, or declared any matter or thing, upon such solemn affirmation or attest, shall incur the same penalties and forfeitures as by the laws and statutes of *England* are provided against persons convicted of wilful and corrupt perjury.

And be it further enacted by the authority aforesaid, That all persons who shall be hereafter either elected to serve in Council and Assembly, or commissioned or appointed to be Judges, Justices,

Masters of the Rolls, Sheriffs, Coroners, and all other offices of State and trust, within this government, who shall conscientiously scruple to take an oath, but when lawfully required, will make and subscribe the declaration and profession of their Christian belief, according to the late act of parliament, made in the first year of king *William*, and the late queen *Mary*, entitled, An act for exempting their majesties' Protestant subjects, dissenting from the Church of *England*, from the penalty of certain laws, shall be adjudged, and are hereby declared to be qualified to act in their said respective offices and places, and thereupon the several officers herein mentioned, shall, instead of an oath make their solemn affirmation or declaration in manner and form following; that is to say,

The form of Judges' and Justices' attest shall be in these words, *viz:*

Thou shalt solemnly promise that as Judge, or Justice, according to the Governor's commission to thee directed, thou shalt do equal to the Governor's commission to thee directed, thou shalt do equal right to the poor and rich, to the best of thy knowledge and power, according to law, and after the usages and constitutions of this government; thee, but shalt well and truly do thy office in every respect, according to the best of thy understanding.

The form of the attests to be taken by the Masters of the Rolls, Secretaries, Clerks, and such like officers, shall be thus, *viz:*

Thou shalt well and faithfully execute the office of, &c., according to the best of thy skill and knowledge; taking such fees only as thou oughtest to receive by the laws of this government.

The form of the Sheriffs' and Coroners' attest, shall be in these words, *viz:*

Thou shalt solemnly promise, that thou wilt well and truly serve the King and Governor in the office of the Sheriff (or Coroner) of the county of, &c., and preserve the King and Governor's rights, as far forth as thou canst, or mayest; thou shalt truly serve, and return, all the writs and precepts to thee directed; thou shalt take no bailiff, nor deputy, but such as thou wilt answer for; thou shalt receive no writs, except from such judges and justices who, by the laws of this government, have authority to issue and direct writs unto thee; and thou shalt diligently and truly do and accomplish all things appertaining to thy office, after the best of thy wit and power, both for the King and Governor's profit, and good of the inhabitants within the said county, taking such fees only as thou oughtest to take by the laws of this government, and not otherwise.

The form of a Constable's attest shall be this, *viz:*

Thou shalt solemnly promise, well and duly, according to the best of thy understanding, to execute the office of a Constable for the town (or county) of P. for this ensuing year, or until another be attested in thy room, or thou shalt be legally discharged thereof.

The form of the Grand Inquest's attests shall be in these words, *viz:*

Thou shalt diligently enquire, and true presentment make, of all such matters and things as shall be given thee in charge, or come to thy knowledge, touching this present service; the King's counsel, thy fellows, and thy own, thou shalt keep secret, and in all things thou shalt present the truth, and nothing but the truth, to the best of thy knowledge.

This being given to the Foreman, the rest of the Inquest shall be attested thus, by three at a time, *viz:*

The same attestation that your Foreman hath taken on his part, you will well and truly keep on your parts.

The form of the attest to be given to the Traverse Jury, by four at a time, shall be thus, *viz:*

You solemnly promise that you will well and truly try the issue of traverse between the lord the King, and A. B. whom you have in charge, according to your evidence.

In civil causes, thus, *viz:*

You solemnly promise that you will well and truly try the issue between A. B. plaintiff, and C. D. defendant, according to your evidence.

Provided always, and it is hereby intended, that no person shall be, by this act, excused from swearing, who, by the acts of parliament, for trade and navigation, are, or shall be required to take an oath.

And, that elections may not be corruptly managed, on which the good of the government so much depends, Be it further enacted by the authority aforesaid, that all elections of the said representatives shall be free and voluntary, and that the electors, who shall receive any reward, or gift, for giving his vote, shall forfeit his right to elect for that year; and such person or persons, as shall give, or promise, any such reward to be elected, or that shall offer to serve for nothing, or for less wages than the law prescribes, shall be thereby rendered incapable to serve in Council, or Assembly, for that year; and the representatives so chosen, either for Council or Assembly, shall yield their attendance accordingly, and be the sole judges of the regularity, or irregularity of the elections of their respective Members; and if any person, or persons, chosen to serve in Council, or Assembly, shall be wilfully absent from the service, he or they are so chosen to attend, or be deceased, or rendered incapable, then, and in all such cases, it shall be lawful for the Governor, within ten days after knowledge of the same, to issue forth a writ to the Sheriff of the county, for which the said person, or persons, were chosen, immediately to summons the freemen of the same to elect another member in the room of such absent, deceased, or incapable person or persons; and in case any Sheriff shall misbehave himself, in the management of any of the said elections, he shall be punished accordingly, at the discretion of the Governor and Council, for the time being.

Be it further enacted by the authority aforesaid, That every member now chosen, or hereafter to be chosen, by the freemen as aforesaid, to serve in Council, and the Speaker of the Assembly, shall be allowed five shillings by the day, during his and their attendance; and every Member of Assembly shall be allowed four shillings by the day, during his attendance on the service of the Assembly; and that every Member of Council and Assembly shall be allowed towards their traveling charges after the rate of two pence each mile, both going to, and coming from, the place, where the Council and Assembly is, or shall be, held; all which sums shall be paid yearly out of the county levies, by the county receivers respectively.

And be it further enacted by the authority aforesaid, That the Governor, or his Deputy, shall always preside in the Council, and that he shall, at no time, perform any public act of state whatsoever, that

shall, or may relate unto the justice, treasury or trade of the province and territories, but by and with the advice and consent of the Council thereof, or major part of them that shall be present.

And be it further enacted by the authority aforesaid, That all the Sheriffs and Clerks of the respective counties of the said province, and territories, who are, or shall be, commissionated, shall give good and sufficient security to the Governor, for answering the king and his people, in matters relating to the said offices respectively.

And be it further enacted by the authority aforesaid, That the Council, in all cases and matters of moment, as about erecting courts of justice, sitting in judgment upon persons impeached, and upon bills and other matters, that may be, from time to time, presented by the Assembly, not less than two-thirds shall make a *quorum;* and that the consent and approbation of the majority of that quorum shall be had in all such cases and matters of moment; and that in cases of less moment, not less than one-third of the whole shall make a quorum; the majority of which shall, and may, always determine in all such matters of lesser moment, as are not above specified: and in case the Governor's power shall hereafter happen to be in the Council, a President shall then be chosen out of themselves by two-thirds, or the major part of them; which President shall therein preside.

Be it further enacted by the authority aforesaid, That the Governor and Council shall take care that all the laws, statutes and ordinances, which shall at any time be made within the said province and territories, be duly and diligently executed.

Be in further enacted by the authority aforesaid, That the Governor and Council shall, at all times, have the care of the peace of this province and territories thereof, and that nothing be, by any persons, attempted to the subversion of this *frame of government.*

And be it further enacted by the authority aforesaid, That the Governor and Council for the time being, shall, at all times, settle and order the situation of all cities and market towns, modeling therein all public buildings, streets and market places; and shall appoint all public landing places of the towns of this province and territories: and if any man's property shall be judged by the Governor and Council to be commodious for such landing place in the said towns, and that the same be by them appointed as such, that the owner shall have such reasonable satisfaction given him for the same as the Governor and Council shall see meet, to be paid by the said respective towns.

Be it further enacted by the authority aforesaid, That the Governor and Council shall, at all times, have power to inspect the management of the public treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the Governor, Council and Assembly.

Be it further enacted by the authority aforesaid, That the Governor and Council shall erect and order all public houses, and encourage and reward the authors of useful sciences and laudable inventions in the said province, and territories thereof.

And be it further enacted by the authority aforesaid, That the Governor and Council shall, from time to time have the care of the management of all public affairs, relating to the peace, safety, justice, treasury, trade, and improvement of the province and territories, and to the good education of youth, and sobriety of the manners of the inhabitants therein, as aforesaid.

And be it further enacted by the authority aforesaid, That the representatives of the freemen, when met in Assembly, shall have power to prepare and propose to the Governor and Council all such bills as they or the major part of them, shall, at any time, see needful to be passed into laws, within the said province and territories.

Provided always, That nothing herein contained shall debar the Governor and Council from recommending to the Assembly all such bills as they shall think fit to be passed into laws; and that the Council and Assembly may, upon occasion, confer together in committees, when desired; all which proposed and prepared bills, or such of them, as the Governor, with the advice of the Council, shall, in open Assembly, declare his assent unto, shall be the laws of this province and territories thereof, and published accordingly, with this stile, *By the Governor, with the assent and approbation of the freemen in General Assembly met;* a true transcript, or duplicate whereof, shall be transmitted to the king's privy council, for the time being, according to the said late king's letters patent.

And be it further enacted by the authority aforesaid, That the Assembly, shall sit upon their own adjournments, and committees, and continue, in order to prepare and propose bills, redress grievances, and impeach criminals, or such persons as they shall think fit to be there impeached, until the Governor and Council, for the time being, shall dismiss them; which Assembly shall, notwithstanding such dismiss, be capable of Assembling together upon summons of the Governor and Council, at any time during that year; two-thirds of which Assembly, in all cases, shall make a quorum.

And be it enacted by the authority aforesaid, That all elections of representatives for Council and Assembly, and all questions to be determined by them, shall be by major part of votes.

Be it further enacted by the authority aforesaid, That as oft as any days of the month, mentioned in any article of this act, shall fall upon the first day of the week, commonly called the Lord's day, the business appointed for that day, shall be deferred till the next day, unless in cases of emergency.

Be it further enacted by the authority aforesaid, That if any alien, who is, or shall be a purchaser of lands, or who doth, or shall inhabit in this province, or territories thereof, shall decease at any time before he can well be denizised, his right and interest therein shall notwithstanding descend to his wife and children, or other, his relations, be he testate, or intestate, according to the laws of this province and territories thereof, in such cases provided, in as free and ample manned, to all intents and purposes, as if said alien had been denizised.

And that the people may be accommodated with such food and sustenance as God, in his providence, hath freely afforded, Be it enacted by the authority aforesaid, That the inhabitants of this province and territories thereof, shall have liberty to fish and hunt, upon the lands they hold, or all other lands therein, not inclosed, and to fish in all waters in the said lands, and in all rivers and rivulets, in and belonging to this province and territories thereof, with liberty to draw his, or their fish upon any man's land, so as it be not to the detriment or annoyance of the owner thereof, except such lands as do lie upon inland rivulets, that are not boatable, or which hereafter may be erected into manors.

Be it further enacted by the authority aforesaid, That all inhabitants of this province and territories, whether purchasers, or others, and every one of them, shall have full and quiet enjoyment of their respective lands and tenements, to which they have any lawful or equitable claim, saving only such rents and services for the same, as are, or customarily ought to be, reserved to the lord, or lords of the fee thereof, respectively.

Be it further enacted by the authority aforesaid, That no act, law, or ordinance whatsoever, shall, at any time hereafter, be made or done, by the Governor of this province, and territories thereunto belonging, or by the freemen, in Council, or Assembly, to alter, change or diminish the form and effect of this act, or any part, or clause thereof, contrary to the true intent and meaning thereof. without the consent of the Governor, for the time being, and six parts of seven of the said freemen, in Council, and Assembly met. This act to continue, and be in force, until the said Proprietary shall signify his pleasure to the contrary, by some instrument, under his hand and seal, in that behalf.

Provided always, and it is hereby enacted, That neither this act, nor any other act, or acts whatsoever, shall preclude, or debar the inhabitants of this province and territories, from claiming, having and enjoying any of the rights, privileges and immunities, which the said Proprietary, for himself, his heirs, and assigns, did formerly grant, or which of right belong unto them, the said inhabitants, by virtue of any law, charter or grants whatsoever, any thing herein contained to the contrary notwithstanding.

CHARTER OF PRIVILEGES GRANTED BY WILLIAM PENN, ESQ. TO THE INHABITANTS OF PENNSYLVANIA AND TERRITORIES, 1701 * [a]

William Penn, Proprietary and Governor of the Province of *Pensilvania* and Territories thereunto belonging, To all to whom these Presents shall come, sendeth Greeting. Whereas King Charles *the Second*, by His Letters Patents, under the Great Seal of *England*, bearing Date the *Fourth* Day of *March*, in the Year *One Thousand Six Hundred and Eighty-one*, was graciously pleased to give and grant unto me, and my Heirs and Assigns for ever, this Province of *Pensilvania*, with divers great Powers and Jurisdictions for the well Government thereof.

And whereas the King's dearest Brother, James *Duke of* York *and* Albany, &c. by his Deeds of Feoffment, under his Hand and Seal duly perfected, bearing Date the *Twenty-Fourth* Day of *August*, *One Thousand Six Hundred Eighty and Two*, did grant unto me, my Heirs and Assigns, all that Tract of Land, now called the Territories of *Pensilvania*, together with Powers and Jurisdictions for the good Government thereof.

And whereas for the Encouragement of all the Freemen and Planters, that might be concerned in the said Province and Territories, and for the good Government thereof, I the said William Penn,

* Idem, Part II, pp. I–III.

[a] This charter was granted by William Penn, with the approbation of the General Assembly, and remained in force until the Revolution.

in the Year *One Thousand Six Hundred Eighty and Three*, for me, my Heirs and Assigns, did grant and confirm unto all the Freemen, Planters and Adventurers therein, divers Liberties, Franchises and Properties, as by the said Grant, entituled, *The* FRAME *of the Government of the Province of* Pensilvania, *and Territories thereunto belonging*, *in* America, may appear; which Charter or Frame being found in some Parts of it, not so suitable to the present Circumstances of the Inhabitants, was in the *Third* Month, in the Year *One Thousand Sevēn Hundred*, delivered up to me, by *Six* Parts of *Seven* of the Freemen of this Province and Territories, in General Assembly met, Provision being made in the said Charter, for that End and Purpose.

AND WHEREAS I was then pleased to promise, That I would restore the said Charter to them again, with necessary Alterations, or in lieu thereof, give them another, better adapted to answer the present Circumstances and Conditions of the said Inhabitants; which they have now, by their Representatives in General Assembly met at *Philadelphia*, requested me to grant.

KNOW YE THEREFORE, That for the further Well-being and good Government of the said Province, and Territories; and in Pursuance of the Rights and Powers before-mentioned, I the said *William Penn* do declare, grant and confirm, unto all the Freemen, Planters and Adventurers, and other Inhabitants of this Province and Territories, these following Liberties, Franchises and Privileges, so far as in me lieth, to be held, enjoyed and kept, by the Freemen, Planters and Adventurers, and other Inhabitants of and in the said Province and Territories thereunto annexed, for ever.

FIRST

BECAUSE no People can be truly happy, though under the greatest Enjoyment of Civil Liberties, if abridged of the Freedom of their Consciences, as to their Religious Profession and Worship: And Almighty God being the only Lord of Conscience, Father of Lights and Spirits; and the Author as well as Object of all divine Knowledge, Faith and Worship, who only doth enlighten the Minds, and persuade and convince the Understandings of People, I do hereby grant and declare, That no Person or Persons, inhabiting in this Province or Territories, who shall confess and acknowledge *One* almighty God, the Creator, Upholder and Ruler of the World; and profess him or themselves obliged to live quietly under the Civil Government, shall be in any Case molested or prejudiced, in his or their Person or Estate, because of his or their conscientious Persuasion or Practice, nor be compelled to frequent or maintain any religious Worship, Place or Ministry, contrary to his or their Mind, or to do or suffer any other Act or Thing, contrary to their religious Persuasion.

AND that all Persons who also profess to believe in *Jesus Christ*, the Saviour of the World, shall be capable (notwithstanding their other Persuasions and Practices in Point of Conscience and Religion) to serve this Government in any Capacity, both legislatively and executively, he or they solemnly promising, when lawfully required, Allegiance to the King as Sovereign, and Fidelity to the Proprietary and Governor, and taking the Attests as now established by the Law

made at *New-Castle*, in the Year *One Thousand and Seven Hundred*, entitled, *An Act directing the Attests of several Officers and Ministers*, as now amended and confirmed this present Assembly.

II

For the well governing of this Province and Territories, there shall be an Assembly yearly chosen, by the Freemen thereof, to consist of *Four* Persons out of each County, of most Note for Virtue, Wisdom and Ability, (or of a greater number at any Time, as the Governor and Assembly shall agree) upon the *First* Day of *October* for ever; and shall sit on the *Fourteenth* Day of the same Month, at *Philadelphia*, unless the Governor and Council for the Time being, shall see Cause to appoint another Place within the said Province or Territories: Which Assembly shall have Power to chuse a Speaker and other their Officers; and shall be Judges of the Qualifications and Elections of their own Members; sit upon their own Adjournments; appoint Committees; prepare Bills in order to pass into Laws; impeach Criminals, and redress Grievances; and shall have all other Powers and Privileges of an Assembly, according to the Rights of the free-born Subjects of *England*, and as is usual in any of the King's Plantations in *America*.

And if any County or Counites, shall refuse or neglect to chuse their respective Representatives as aforesaid, or if chosen, do not meet to serve in Assembly, those who are so chosen and met, shall have the full Power of an Assembly, in as ample Manner as if all the Representatives had been chosen and met, provided they are not less than *Two Thirds* of the whole Number that ought to meet.

And that the Qualifications of Electors and Elected, and all other Matters and Things relating to Elections of Representatives to serve in Assemblies, though not herein particularly expressed, shall be and remain as by a Law of this Government, made at *New-Castle* in the Year *One Thousand Seven Hundred*, entitled, *An Act to ascertain the Number of Members of Assembly, and to regulate the Elections.*

III

That the Freemen in each respective County, at the Time and Place of Meeting for Electing their Representatives to serve in Assembly, may as often as there shall be Occasion, chuse a double Number of Persons to present to the Governor for Sheriffs and Coroners to serve for *Three* Years, if so long they behave themselves well; out of which respective Elections and Presentments, the Governor shall nominate and commissionate one for each of the said Offices, the *Third* Day after such Presentment, or else the *First* named in such Presentment, for each Office as aforesaid, shall stand and serve in that Office for the Time before respectively limited; and in Case of Death or Default, such Vacancies shall be supplied by the Governor, to serve to the End of the said Term.

Provided always, That if the said Freemen shall at any Time neglect or decline to chuse a Person or Persons for either or both the aforesaid Offices, then and in such Case, the Persons that are or shall be in the respective Offices of Sheriffs or Coroners, at the Time of Election, shall remain therein, until they shall be removed by another Election as aforesaid.

And that the Justices of the respective Counties shall or may nominate and present to the Governor *Three* Persons, to serve for Clerk of the Peace for the said County, when there is a Vacancy, one of which the Governor shall commissionate within *Ten* Days after such Presentment, or else the *First* nominated shall serve in the said Office during good Behavior.

IV

That the Laws of this Government shall be in this Stile, viz. *By the Governor, with the Consent and Approbation of the Freemen in General Assembly met:* and shall be, after Confirmation by the Governor, forthwith recorded in the Rolls Office, and kept at *Philadelphia*, unless the Governor and Assembly shall agree to appoint another Place.

V

That all Criminals shall have the same Privileges of Witnesses and Council as their Prosecutors.

VI

That no Person or Persons shall or may, at any Time hereafter, be obliged to answer any Complaint, Matter or Thing whatsoever, relating to Property, before the Governor and Council, or in any other Place, but in ordinary Course of Justice, unless Appeals thereunto shall be hereafter by Law appointed.

VII

That no Person within this Government, shall be licensed by the Governor to keep an Ordinary, Tavern or House of Publick Entertainment, but such who are first recommended to him, under the Hands of the Justices of the respective Counties, signed in open Court; which Justices are and shall be hereby impowered, to suppress and forbid any Person, keeping such Publick-House as aforesaid, upon their Misbehaviour, on such Penalties as the Law doth or shall direct; and to recommend others from time to time, as they shall see Occasion.

VIII

If any person, through Temptation or Melancholy, shall destroy himself; his Estate, real and personal, shall notwithstanding descend to his Wife and Children, or Relations, as if he had died a natural Death; and if any Person shall be destroyed or killed by Casualty or Accident, there shall be no Forfeiture to the Governor by reason thereof.

And no Act, Law or Ordinance whatsoever, shall at any Time hereafter, be made or done, to alter, change or diminish the Form or Effect of this Charter, or of any Part or Clause therein, contrary to the true Intent and Meaning thereof, without the Consent of the Governor for the Time being, and *Six* Parts of *Seven* of the Assembly met.

But because the Happiness of Mankind depends so much upon the Enjoying of Liberty of their Consciences as aforesaid, I do hereby

solemnly declare, promise and grant, for me, my Heirs and Assigns, That the *First* Article of this Charter relating to Liberty of Conscience, and every Part and Clause therein, according to the true Intent and Meaning thereof, shall be kept and remain, without any Alteration, inviolably for ever.

And lastly, I the said *William Penn*, Proprietary and Governor of the Province of *Pensilvania*, and Territories thereunto belonging, for myself, my Heirs and Assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, That neither I, my Heirs or Assigns, shall procure or do any Thing or Things whereby the Liberties in this Charter contained and expressed, nor any Part thereof, shall be infringed or broken: And if any thing shall be procured or done, by any Person or Persons, contrary to these Presents, it shall be held of no Force or Effect.

In witness whereof, I the said *William Penn*, at *Philadelphia* in *Pensilvania*, have unto this present Charter of Liberties, set my Hand and broad Seal, this *Twenty-Eighth* Day of *October*, in the Year of Our Lord *One Thousand Seven Hundred and One*, being the *Thirteenth* Year of the Reign of King William *the Third*, over *England*, *Scotland*, *France* and *Ireland*, &c. and the *Twenty-First* Year of my Government.

And notwithstanding the Closure and Test of this present Charter as aforesaid, I think fit to add this following Proviso thereunto, as Part of the same, *That is to say*, That notwithstanding any Clause or Clauses in the above-mentioned Charter, obliging the Province and Territories to join together in Legislation, I am content, and do hereby declare, that if the Representatives of the Province and Territories shall not hereafter agree to join together in Legislation, and that the same shall be signified unto me, or my Deputy, in open Assembly, or otherwise from under the Hands and Seals of the Representatives, for the Time being, of the Province and Territories, or the major Part of either of them, at any Time within *Three* Years from the Date hereof, that in such Case, the Inhabitants of each of the *Three* Counties of this Province, shall not have less than *Eight* Persons to represent them in Assembly, for the Province; and the Inhabitants of the Town of *Philadelphia* (when the said Town is incorporated) *Two* Persons to represent them in Assembly; and the Inhabitants of each County in the Territories, shall have as many Persons to represent them in a distinct Assembly for the Territories, as shall be by them requested as aforesaid.

Notwithstanding which Separation of the Province and Territories, in Respect of Legislation, I do hereby promise, grant and declare, That the Inhabitants of both Province and Territories, shall separately enjoy all other Liberties, Privileges and Benefits, granted jointly to them in this Charter, any Law, Usage or Custom of this Government heretofore made and practised, or any Law made and passed by this General Assembly, to the Contrary hereof, notwithstanding.

William Penn.

This Charter of Privileges *being distinctly read in Assembly; and the whole and every Part thereof, being approved of and agreed to, by us, we do thankfully receive the same from our Proprietary*

and Governor, *at* Philadelphia, *this* Twenty-Eighth *Day of* October, One Thousand Seven Hundred and One. *Signed on Behalf*, *and by Order of the Assembly*,

per JOSEPH GROWDON, *Speaker.*

EDWARD SHIPPEN, GRIFFITH OWEN,
PHINEAS PEMBERTON, CALEB PUSEY,
SAMUEL CARPENTER, THOMAS STORY,
Proprietary and Governor's Council.

CONSTITUTION OF PENNSYLVANIA—1776 * [a]

WHEREAS all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man; and whenever these great ends of government are not obtained, the people have a right, by common consent to change it, and take such measures as to them may appear necessary to promote their safety and happiness. AND WHEREAS the inhabitants of this commonwealth have in consideration of protection only, heretofore acknowledged allegiance to the king of Great Britain; and the said king has not only withdrawn that protection, but commenced, and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them, employing therein, not only the troops of Great Britain, but foreign mercenaries, savages and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British parliament, with many other acts of tyranny, (more fully set forth in the declaration of Congress) whereby all allegiance and fealty to the said king and his successors, are dissolved and at an end, and all power and authority derived from him ceased in these colonies. AND WHEREAS it is absolutely necessary for the welfare and safety of the inhabitants of said colonies, that they be henceforth free and independent States, and that just, permanent, and proper forms of government exist in every part of them, derived from and founded on the authority of the people

* The Proceedings Relative to Calling the Conventions of 1776 and 1790, the Minutes of the Convention that formed the present Constitution of Pennsylvania, together with the Charter to William Penn, the Constitutions of 1776 and 1790, and a view of the Proceedings of the Convention of 1776 and the Council of Censors. Harrisburg: Printed by John S. Wiestling, Market Street, 1825. pp. 384. Index.

The Constitution of the Commonwealth of Pennsylvania, as established by the General Convention, carefully compared with the original, to which is added a Report of the Committee appointed to enquire, "Whether the Constitution has been preserved inviolate in every Part, and whether the legislative and executive branches of Government, have performed their duty as Guardians of the People, or assumed to themselves or exercised other or greater Powers, than they are entitled to by the Constitution."

As adopted by the Council of Censors, Published by their Order. Philadelphia: Printed by Francis Bailey, at Yorick's Head, in Market Street. M, DCC.LXXXIV. pp. 64.

[a] This constitution was framed by a convention (called in accordance with the expressed wish of the Continental Congress) which assembled at Philadelphia July 15, 1776, and completed its labors September 28, 1776. It was not submitted to the people for ratification.

only, agreeable to the directions of the honourable American Congress. We, the representatives of the freemen of Pennsylvania, in general convention met, for the express purpose of framing such a government, confessing the goodness of the great Governor of the universe (who alone knows to what degree of earthly happiness mankind may attain, by perfecting the arts of government) in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves such just rules as they shall think best, for governing their future society; and being fully convinced, that it is our indispensable duty to establish such original principles of government, as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against any particular class, sect, or denomination of men whatever, do, by virtue of the authority vested in use by our constituents, ordain, declare, and establish, the following *Declaration of Rights* and *Frame of Government*, to be the CONSTITUTION of this commonwealth, and to remain in force therein for ever, unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall by the same authority of the people, fairly delegated as this frame of government directs, be amended or improved for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH, OR STATE OF PENNSYLVANIA

I. That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

II. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understanding: And that no man ought or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent: Nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode of religious worship: And that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship.

III. That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

IV. That all power being originally inherent in, and consequently derived from, the people; therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them.

V. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; and not for the particular emolument or advantage of any single man,

family, or sett of men, who are a part only of that community; And that the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish government in such manner as shall be by that community judged most conducive to the public weal.

VI. That those who are employed in the legislative and executive business of the State, may be restrained from oppression, the people have a right, at such periods as they may think proper, to reduce their public officers to a private station, and supply the vacancies by certain and regular elections.

VII. That all elections ought to be free; and that all free men having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, or to be elected into office.

VIII. That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service when necessary, or an equivalent thereto: But no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent, nor are the people bound by any laws, but such as they have in like manner assented to, for their common good.

IX. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his council, to demand the cause and nature of his accusation, to be confronted with the witnesses, to call for evidence in his favour, and a speedy public trial, by an impartial jury of the country, without the unanimous consent of which jury he cannot be found guilty; nor can he be compelled to give evidence against himself; nor can any man be justly deprived of his liberty except by the laws of the land, or the judgment of his peers.

X. That the people have a right to hold themselves, their houses, papers, and possessions free from search and seizure, and therefore warrants without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are contrary to that right, and ought not to be granted.

XI. That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred.

XII. That the people have a right to freedom of speech, and of writing, and publishing their sentiments; therefore the freedom of the press ought not to be restrained.

XIII. That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the military should be kept under strict subordination to, and governed by, the civil power.

XIV. That a frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty, and keep a government free: The people ought therefore to pay particular attention to these points in the choice of officers and representatives, and have a right to exact a due and constant regard to

them, from their legislatures and magistrates, in the making and executing such laws as are necessary for the good government of the state.

XV. That all men have a natural inherent right to emigrate from one state to another that will receive them, or to form a new state in vacant countries, or in such countries as they can purchase, whenever they think that thereby they may promote their own happiness.

XVI. That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances, by address, petition, or remonstrance.

PLAN OR FRAME OF GOVERNMENT FOR THE COMMONWEALTH OR STATE OF PENNSYLVANIA

SECTION 1. The commonwealth or state of Pennsylvania shall be governed hereafter by an assembly of the representatives of the freemen of the same, and a president and council, in manner and form following—

SECT. 2. The supreme legislative power shall be vested in a house of representatives of the freemen of the commonwealth or state of Pennsylvania.

SECT. 3. The supreme executive power shall be vested in a president and council.

SECT. 4. Courts of justice shall be established in the city of Philadelphia, and in every county of this state.

SECT. 5. The freemen of this commonwealth and their sons shall be trained and armed for its defence under such regulations, restrictions, and exceptions as the general assembly shall by law direct, preserving always to the people the right of choosing their colonels and all commissioned officers under that rank, in such manner and as often as by the said laws shall be directed.

SECT. 6. Every freemen of the full age of twenty-one years, having resided in this state for the space of one whole year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector: Provided always, that sons of freeholders of the age of twenty-one years shall be intitled to vote although they have not paid taxes.

SECT. 7. The house of representatives of the freemen of this commonwealth shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of every city and county of this commonwealth respectively. And no person shall be elected unless he has resided in the city or county for which he shall be chosen two years immediately before the said election; nor shall any member, while he continues such, hold any other office, except in the militia.

SECT. 8. No person shall be capable of being elected a member to serve in the house of representatives of the freemen of this commonwealth more than four years in seven.

SECT. 9. The members of the house of representatives shall be chosen annually by ballot, by the freemen of the commonwealth, on the second Tuesday in October forever, (except this present year,) and shall meet on the fourth Monday of the same month, and shall be stiled, *The general assembly of the representatives of the freemen of Pennsylvania*, and shall have power to choose their speaker, the

treasurer of the state, and their other officers; sit on their own adjournments; prepare bills and enact them into laws; judge of the elections and qualifications of their own members; they may expel a member, but not a second time for the same cause; they may administer oaths or affirmations on examination of witnesses; redress grievances; impeach state criminals; grant charters of incorporation; constitute towns, boroughs, cities, and counties; and shall have all other powers necessary for the legislature of a free state or commonwealth: But they shall have no power to add to, alter, abolish, or infringe any part of this constitution.

Sect. 10. A quorum of the house of representatives shall consist of two-thirds of the whole number of members elected; and having met and chosen their speaker, shall each of them before they proceed to business take and subscribe, as well the oath or affirmation of fidelity and allegiance hereinafter directed, as the following oath or affirmation, viz:

I ——— do swear (or affirm) that as a member of this assembly, I will not propose or assent to any bill, vote, or resolution, which shall appear to me injurious to the people; nor do or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared in the constitution of this state; but will in all things conduct myself as a faithful honest representative and guardian of the people, according to the best of my judgment and abilities.

And each member, before he takes his seat, shall make and subscribe the following declaration, viz:

I do believe in one God, the creator and governor of the universe, the rewarder of the good and the punisher of the wicked. And I do acknowledge the Scriptures of the Old and New Testament to be given by Divine inspiration.

And no further or other religious test shall ever hereafter be required of any civil officer or magistrate in this State.

Sect. 11. Delegates to represent this state in congress shall be chosen by ballot by the future general assembly at their first meeting, and annually forever afterwards, as long as such representation shall be necessary. Any delegate may be superseded at any time, by the general assembly appointing another in his stead. No man shall sit in congress longer than two years successively, nor be capable of reëlection for three years afterwards: and no person who holds any office in the gift of the congress shall hereafter be elected to represent this commonwealth in congress.

Sect. 12. If any city or cities, county or counties shall neglect or refuse to elect and send representatives to the general assembly, two-thirds of the members from the cities or counties that do elect and send representatives, provided they be a majority of the cities and counties of the whole state, when met, shall have all the powers of the general assembly, as fully and amply as if the whole were present.

Sect. 13. The doors of the house in which the representatives of the freemen of this state shall sit in general assembly, shall be and remain open for the admission of all persons who behave decently, except only when the welfare of this state may require the doors to be shut.

Sect. 14. The votes and proceedings of the general assembly shall be printed weekly during their sitting, with the yeas and nays, on any question, vote or resolution, where any two members require it, except

when the vote is taken by ballot; and when the yeas and nays are so taken every member shall have a right to insert the reasons of his vote upon the minutes, if he desires it.

Sect. 15. To the end that laws before they are enacted may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills of public nature shall be printed for the consideration of the people, before they are read in general assembly the last time for debate and amendment; and, except on occasions of sudden necessity, shall not be passed into laws until the next session of assembly; and for the more perfect satisfaction of the public, the reasons and motives for making such laws shall be fully and clearly expressed in the preambles.

Sect. 16. The stile of the laws of this commonwealth shall be, "Be it enacted, and it is hereby enacted by the representatives of the freemen of the commonwealth of Pennsylvania in general assembly met, and by the authority of the same." And the general assembly shall affix their seal to every bill, as soon as it is enacted into a law, which seal shall be kept by the assembly, and shall be called, *The seal of the laws of Pennsylvania*, and shall not be used for any other purpose.

Sect. 17. The city of Philadelphia and each county of this commonwealth respectively, shall on the first Tuesday of November in this present year, and on the second Tuesday of October annually for the two next succeeding years, *viz.* the year one thousand seven hundred and seventy-seven, and the year one thousand seven hundred and seventy-eight, choose six persons to represent them in general assembly. But as representation in proportion to the number of taxable inhabitants is the only principle which can at all times secure liberty, and make the voice of a majority of the people the law of the land; therefore the general assembly shall cause complete lists of the taxable inhabitants in the city and each county in the commonwealth respectively, to be taken and returned to them, on or before the last meeting of the assembly elected in the year one thousand seven hundred and seventy-eight, who shall appoint a representation to each, in proportion to the number of taxables in such returns; which representation shall continue for the next seven years afterwards at the end of which, a new return of the taxable inhabitants shall be made, and a representation agreeable thereto appointed by the said assembly, and so on septennially forever. The wages of the representatives in general assembly, and all other state charges shall be paid out of the state treasury.

Sect. 18. In order that the freemen of this commonwealth may enjoy the benefit of election as equally as may be until the representation shall commence, as directed in the foregoing section, each county at its own choice may be divided into districts, hold elections therein, and elect their representatives in the county, and their other elective officers, as shall be hereafter regulated by the general assembly of this state. And no inhabitant of this state shall have more than one annual vote at the general election for representatives in assembly.

Sect. 19. For the present the supreme executive council of this state shall consist of twelve persons chosen in the following manner: The freemen of the city of Philadelphia, and of the counties of Philadelphia, Chester, and Bucks, respectively, shall choose by ballot one person for the city, and one for each county aforesaid, to serve for

three years and no longer, at the time and place for electing representatives in general assembly. The freemen of the counties of Lancaster, York, Cumberland, and Berks, shall, in like manner elect one person for each county respectively, to serve as counsellors for two years and no longer. And the counties of Northampton, Bedford, Northumberland and Westmoreland, respectively, shall, in like manner, elect one person for each county, to serve as counsellors for one year, and no longer. And at the expiration of the time for which each counsellor was chosen to serve, the freemen of the city of Philadelphia, and of the several counties in this state, respectively, shall elect one person to serve as counsellor for three years and no longer; and so on every third year forever. By this mode of election and continual rotation, more men will be trained to public business, there will in every subsequent year be found in the council a number of persons acquainted with the proceedings of the foregoing years, whereby the business will be more consistently conducted, and moreover the danger of establishing an inconvenient aristocracy will be effectually prevented. All vacancies in the council that may happen by death, resignation, or otherwise, shall be filled at the next general election for representatives in general assembly, unless a particular election for that purpose shall be sooner appointed by the president and council. No member of the general assembly or delegate in congress, shall be chosen a member of the council. The president and vice-president shall be chosen annually by the joint ballot of the general assembly and council, of the members of the council. Any person having served as a counsellor for three successive years, shall be incapable of holding that office for four years afterwards. Every member of the council shall be a justice of the peace for the whole commonwealth, by virtue of his office.

In case new additional counties shall hereafter be erected in this state, such county or counties shall elect a counsellor, and such county or counties shall be annexed to the next neighbouring counties, and shall take rotation with such counties.

The council shall meet annually, at the same time and place with the general assembly.

The treasurer of the state, trustees of the loan office, naval officers, collectors of customs or excise, judge of the admirality, attornies general, sheriffs, and prothonotaries, shall not be capable of a seat in the general assembly, executive council, or continental congress.

Sect. 20. The president, and in his absence the vice-president, with the council, five of whom shall be a quorum, shall have power to appoint and commissionate judges, naval officers, judge of the admiralty, attorney general and all other officers, civil and military, except such as are chosen by the general assembly or the people, agreeable to this frame of government, and the laws that may be made hereafter; and shall supply every vacancy in any office, occasioned by death, resignation, removal or disqualification, until the office can be filled in the time and manner directed by law or this constitution. They are to correspond with other states, and transact business with the officers of government, civil and military; and to prepare such business as may appear to them necessary to lay before the general assembly. They shall sit as judges, to hear and determine on impeachments, taking to their assistance for advice only, the justices of the supreme court. And shall have power to grant pardons, and

remit fines, in all cases whatsoever, except in cases of impeachment; and in cases of treason and murder, shall have power to grant reprieves, but not to pardon, until the end of the next sessions of assembly; but there shall be no remission or mitigation of punishments on impeachments, except by act of the legislature; they are also to take care that the laws be faithfully executed; they are to expedite the execution of such measures as may be resolved upon by the general assembly; and they may draw upon the treasury for such sums as shall be appropriated by the house: They may also lay embargoes, or prohibit the exportation of any commodity, for any time, not exceeding thirty days, in the recess of the house only: They may grant such licences, as shall be directed by law, and shall have power to call together the general assembly when necessary, before the day to which they shall stand adjourned. The president shall be commander in chief of the forces of the state, but shall not command in person, except advised thereto by the council, and then only so long as they shall approve thereof. The president and council shall have a secretary, and keep fair books of their proceedings, wherein any counsellor may enter his dissent, with his reasons in support of it.

Sect. 21. All commissions shall be in the name, and by the authority of the freemen of the commonwealth of Pennsylvania, sealed with the state seal, signed by the president or vice-president, and attested by the secretary; which seal shall be kept by the council.

Sect. 22. Every officer of state, whether judicial or executive, shall be liable to be impeached by the general assembly, either when in office, or after his resignation or removal for mal-administration: All impeachments shall be before the president or vice-president and council, who shall hear and determine the same.

Sect. 23. The judges of the supreme court of judicature shall have fixed salaries, be commissioned for seven years only, though capable of re-appointment at the end of that term, but removable for misbehaviour at any time by the general assembly; they shall not be allowed to sit as members in the continental congress, executive council, or general assembly, nor to hold any other office civil or military, nor to take or receive fees or perquisites of any kind.

Sect. 24. The supreme court, and the several courts of common pleas of this commonwealth, shall, besides the powers usually exercised by such courts, have the powers of a court of chancery, so far as relates to the perpetuating testimony, obtaining evidence from places not within this state, and the care of the persons and estates of those who are *non compotes mentis*, and such other powers as may be found necessary by future general assemblies, not inconsistent with this constitution.

Sect. 25. Trials shall be by jury as heretofore: And it is recommended to the legislature of this state, to provide by law against every corruption or partiality in the choice, return, or appointment of juries.

Sect. 26. Courts of sessions, common pleas, and orphans courts shall be held quarterly in each city and county; and the legislature shall have power to establish all such other courts as they may judge for the good of the inhabitants of the state. All courts shall be open, and justice shall be impartially administered without corruption or unnecessary delay: All their officers shall be paid an adequate but moderate compensation for their services: And if any officer shall

take greater or other fees than the law allows him, either directly or indirectly, it shall ever after disqualify him from holding any office in this state.

Sect. 27. All prosecutions shall commence in the name and by the authority of the freemen of the commonwealth of Pennsylvania; and all indictments shall conclude with these words, "*Against the peace and dignity of the same.*" The style of all process hereafter in this state shall be, *The commonwealth of Pennsylvania.*

Sect. 28. The person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or presumption great.

Sect. 29. Excessive bail shall not be exacted for bailable offences: And all fines shall be moderate.

Sect. 30. Justices of the peace shall be elected by the freeholders of each city and county respectively, that is to say, two or more persons may be chosen for each ward, township, or district, as the law shall hereafter direct: And their names shall be returned to the president in council, who shall commissionate one or more of them for each ward, township, or district so returning, for seven years, removable for misconduct by the general assembly. But if any city or county, ward, township, or district in this commonwealth, shall hereafter incline to change the manner of appointing their justices of the peace as settled in this article, the general assembly may make laws to regulate the same, agreeable to the desire of a majority of the freeholders of the city or county, ward, township, or district so applying. No justice of the peace shall sit in the general assembly unless he first resigns his commission; nor shall he be allowed to take any fees, nor any salary or allowance, except such as the future legislature may grant.

Sect. 31. Sheriffs and coroners shall be elected annually in each city and county, by the freemen; that is to say, two persons for each office, one of whom for each, is to be commissioned by the president in council. No person shall continue in the office of sheriff more than three successive years, or be capable of being again elected during four years afterwards. The election shall be held at the same time and place appointed for the election of representatives: And the commissioners and assessors, and other officers chosen by the people, shall also be then and there elected, as has been usual heretofore, until altered or otherwise regulated by the future legislature of this state.

Sect. 32. All elections, whether by the people or in general assembly, shall be by ballot, free and voluntary: And any elector, who shall receive any gift or reward for his vote, in meat, drink, monies, or otherwise, shall forfeit his right to elect for that time, and suffer such other penalties as future laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such rewards to be elected, shall be thereby rendered incapable to serve for the ensuing year.

Sect. 33. All fees, licence money, fines and forfeitures heretofore granted, or paid to the governor, or his deputies for the support of

government, shall hereafter be paid into the public treasury, unless altered or abolished by the future legislature.

Sect. 34. A register's office for the probate of wills and granting letters of administration, and an office for the recording of deeds, shall be kept in each city and county: The officers to be appointed by the general assembly, removable at their pleasure, and to be commissioned by the president in council.

Sect. 35. The printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any part of government.

Sect. 36. As every freeman to preserve his independence, (if without a sufficient estate) ought to have some profession, calling, trade or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit, the usual effects of which are dependence and servility unbecoming freemen, in the possessors and expectants; faction, contention, corruption, and disorder among the people. But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation: And whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature.

Sect. 37. The future legislature of this state, shall regulate intails in such a manner as to prevent perpetuities.

Sect. 38. The penal laws as heretofore used shall be reformed by the legislature of this state, as soon as may be, and punishments made in some cases less sanguinary, and in general more proportionate to the crimes.

Sect. 39. To deter more effectually from the commission of crimes, by continued visible punishments of long duration, and to make sanguinary punishments less necessary; houses ought to be provided for punishing by hard labour, those who shall be convicted of crimes not capital; wherein the criminals shall be imployed for the benefit of the public, or for reparation of injuries done to private persons: And all persons at proper times shall be admitted to see the prisoners at their labour.

Sect. 40. Every officer, whether judicial, executive or military, in authority under this commonwealth, shall take the following oath or affirmation of allegiance, and general oath of office before he enters on the execution of his office.

THE OATH OR AFFIRMATION OF ALLEGIANCE

I ——— do swear (or affirm) that I will be true and faithful to the commonwealth of Pennsylvania: And that I will not directly or indirectly do any act or thing prejudicial or injurious to the constitution or government thereof, as established by the convention.

THE OATH OR AFFIRMATION OF OFFICE

I ——— do swear (or affirm) that I will faithfully execute the office of ——— for the ——— of ——— and will do equal right and justice to all men, to the best of my judgment and abilities, according to law.

Sect. 41. No public tax, custom or contribution shall be imposed upon, or paid by the people of this state, except by a law for that pur-

pose: And before any law be made for raising it, the purpose for which any tax is to be raised ought to appear clearly to the legislature to be of more service to the community than the money would be, if not collected; which being well observed, taxes can never be burthens.

SECT. 42. Every foreigner of good character who comes to settle in this state, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land or other real estate; and after one year's residence, shall be deemed a free denizen thereof, and entitled to all the rights of a natural born subject of this state, except that he shall not be capable of being elected a representative until after two years residence.

SECT. 43. The inhabitants of this state shall have liberty to fowl and hunt in seasonable times on the lands they hold, and on all other lands therein not inclosed; and in like manner to fish in all boatable waters, and others not private property.

SECT. 44. A school or schools shall be established in each county by the legislature, for the convenient instruction of youth, with such salaries to the masters paid by the public, as may enable them to instruct youth at low prices: And all useful learning shall be duly encouraged and promoted in one or more universities.

SECT. 45. Laws for the encouragement of virtue, and prevention of vice and immorality, shall be made and constantly kept in force, and provision shall be made for their due execution: And all religious societies or bodies of men heretofore united or incorporated for the advancement of religion or learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they were accustomed to enjoy, or could of right have enjoyed, under the laws and former constitution of this state.

SECT. 46. The declaration of rights is hereby declared to be a part of the constitution of this commonwealth, and ought never to be violated on any pretence whatever.

SECT. 47. In order that the freedom of the commonwealth may be preserved inviolate forever, there shall be chosen by ballot by the freemen in each city and county respectively, on the second Tuesday in October, in the year one thousand seven hundred and eighty-three, and on the second Tuesday in October, in every seventh year thereafter, two persons in each city and county of this state, to be called the COUNCIL OF CENSORS; who shall meet together on the second Monday of November next ensuing their election; the majority of whom shall be a quorum in every case, except as to calling a convention, in which two-thirds of the whole number elected shall agree: And whose duty it shall be to enquire whether the constitution has been preserved inviolate in every part; and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are intitled to by the constitution: They are also to enquire whether the public taxes have been justly laid and collected in all parts of this commonwealth, in what manner the public monies have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers, and records; they shall have authority to

pass public censures, to order impeachments, and to recommend to the legislature the repealing such laws as appear to them to have been enacted contrary to the principles of the constitution. These powers they shall continue to have, for and during the space of one year from the day of their election and no longer: The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appear to them an absolute necessity of amending any article of the constitution which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people: But the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

Passed in Convention the 28th day of September, 1776, and signed by their order.

BENJ. FRANKLIN, *Prest.*

CONSTITUTION OF PENNSYLVANIA—1790 * [a]

We, the people of the commonwealth of Pennsylvania, ordain and establish this constitution for its government.

ARTICLE I

SECTION 1. The legislative power of this commonwealth shall be vested in a general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The representatives shall be chosen, annually, by the citizens of the city of Philadelphia, and of each county respectively, on the second Tuesday of October.

SEC. 3. No person shall be a representative, who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State three years next preceding his election, and the last year thereof an inhabitant of the city or county in which he shall be chosen; unless he shall have been absent on the public business of the United States, or of this State. No person, residing within any

* "Minutes of the Grand Committee of the whole convention of the Commonwealth of Pennsylvania, which commenced at Philadelphia, on Tuesday, the twenty-fourth day of November, in the year of Our Lord One Thousand Seven Hundred and Eighty-nine, for the purpose of reviewing, and, if they see occasion, altering and amending, the constitution of this State. Philadelphia: Printed by Zachariah Poulson, Jun. in Fourth Street, between Market Street and Arch Street." 101 pp.

"Minutes of the Second session of the Convention of the Commonwealth of Pennsylvania, which commenced at Philadelphia, on Monday the ninth day of August, in the year of Our Lord One Thousand Seven Hundred and Ninety." 222 pp.

[a] This constitution was framed by a convention which assembled at Philadelphia, November 24, 1789, completed its labors February 26, 1790, and then adjourned that the people might examine their work. The convention reassembled August 9, 1790, and formally proclaimed the new constitution September 2, 1790.

city, town, or borough, which shall be entitled to a separate representation, shall be elected a member for any county; nor shall any person residing without the limits of any such city, town, or borough, be elected a member therefor.

SEC. 4. Within three years after the first meeting of the general assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made, in such manner as shall be directed by law. The number or representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the city of Philadelphia and the several counties, according to the number of taxable inhabitants in each; and shall never be less than sixty, nor greater than one hundred. Each county shall have, at least, one representative; but no county, hereafter erected, shall be entitled to a separate representation, until a sufficient number of taxable inhabitants shall be contained within it, to entitle them to one representative, agreeably to the ratio which shall then be established.

SEC. 5. The senators shall be chosen for four years by the citizens of Philadelphia, and of the several counties, at the same time, in the same manner, and at the same places where they shall vote for representatives.

SEC. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the districts, formed as hereinafter directed, according to the number of taxable inhabitants in each; and shall never be less than one-fourth, nor greater than one-third, of the number of representatives.

SEC. 7. The senators shall be chosen in districts, to be formed by the legislature, each district containing such a number of taxable inhabitants as shall be entitled to elect not more than four senators. When a district shall be composed of two or more counties, they shall be adjoining. Neither the city of Philadelphia nor any county shall be divided in forming a district.

SEC. 8. No person shall be a senator, who shall not have attained the age of twenty-five years, and have been a citizen and inhabitant of the State four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

SEC. 9. Immediately after the senators shall be assembled, in consequence of the first election, subsequent to the first enumeration, they shall be divided, by lot, as equally as may be, into four classes. The seats of the senators of the first class shall be vacated at the expiration of the first year, of the second class at the expiration of the second year, of the third class at the expiration of the third year, and of the fourth class at the expiration of the fourth year; so that one-fourth may be chosen every year.

SEC. 10. The general assembly shall meet on the first Tuesday of December in every year, unless sooner convened by the governor.

SEC. 11. Each house shall choose its speaker and other officers; and the senate shall also choose a speaker *pro tempore*, when the speaker shall exercise the office of governor.

SEC. 12. Each house shall judge of the qualifications of its members. Contested elections shall be determined by a committee, to be selected,

formed, and regulated in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized, by law, to compel the attendance of absent members, in such manner, and under such penalties, as may be provided.

SEC. 13. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free State.

SEC. 14. Each house shall keep a journal of its proceedings, and publish them weekly, except such parts as may require secrecy: And the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 15. The doors of each house, and of committees of the whole, shall be open unless when the business shall be such as ought to be kept secret.

SEC. 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 17. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the commonwealth. They shall, in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at the session of the respective houses, and in going to and returning from the same: And for any speech or debate in either house they shall not be questioned in any other place.

SEC. 18. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth, which shall have been created, or the emoluments of which shall have been increased, during such time; and no member of Congress, or other person holding any office (except of attorney at law and in the militia) under the United States, or this commonwealth, shall be a member of either house during his continuance in Congress, or in office.

SEC. 19. When vacancies happen in either house, the speaker shall issue writs of election to fill such vacancies.

SEC. 20. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in other bills.

SEC. 21. No money shall be drawn from the treasury, but in consequence of appropriations made by law.

SEC. 22. Every bill, which shall have passed both houses, shall be presented to the governor. If he approve, he shall sign it; but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered; and if approved by two-thirds of that house, it shall be a law. But in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals

of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

Sec. 23. Every order, resolution, or vote to which the concurrence of both houses may be necessary (except on a question of adjournment) shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

Article II

Section 1. The supreme executive power of this commonwealth shall be vested in a governor.

Sec. 2. The governor shall be chosen on the second Tuesday of October, by the citizens of the commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the senate, who shall open and publish them in the presence of the members of both houses of the legislature. The person having the highest number of votes shall be governor. But if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. Contested elections shall be determined by a committee, to be selected from both houses of the legislature, and formed and regulated in such manner as shall be directed by law.

Sec. 3. The governor shall hold his office during three years from the third Tuesday of December next ensuing his election, and shall not be capable of holding it longer than nine in any term of twelve years.

Sec. 4. He shall be, at least, thirty years of age, and have been a citizen and inhabitant of this State seven years next before his election; unless he shall have been absent on the public business of the United States, or of this State.

Sec. 5. No member of Congress, or person holding any office under the United States, or this State, shall exercise the office of governor.

Sec. 6. The governor shall, at stated times, receive for his services a compensation, which shall be neither increased nor diminished during the period for which he shall have been elected.

Sec. 7. He shall be commander-in-chief of the army and navy of this commonwealth, and of the militia; except when they shall be called into the actual service of the United States.

Sec. 8. He shall appoint all officers, whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within any county who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from

this State, nor any person holding or exercising any office of trust or profit under the United States, shall, at the same time, hold or exercise the office of judge, secretary, treasurer, prothonotary, register of wills, recorder of deeds, sheriff, or any office in this State to which a salary is by law annexed, or any other office which future legislatures shall declare incompatible with offices or appointments under the United States.

SEC. 9. He shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment.

SEC. 10. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. He may, on extraordinary occasions, convene the general assembly; and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

SEC. 13. He shall take care that the laws be faithfully executed.

SEC. 14. In case of the death or resignation of the governor, or of his removal from office, the speaker of the senate shall exercise the office of governor until another governor shall be duly qualified. And if the trial of a contested election shall continue longer than until the third Tuesday in December next ensuing the election of a governor, the governor of the last year, or the speaker of the senate who may be in the exercise of the executive authority, shall continue therein until the determination of such contested election, and until a governor shall be qualified as aforesaid.

SEC. 15. A secretary shall be appointed and commissioned during the governor's continuance in office, if he shall so long behave himself well. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the legislature, and shall perform such other duties as shall be enjoined him by law.

ARTICLE III

SECTION 1. In elections by the citizens, every freeman of the age of twenty-one years, having resided in the State two years next before the election, and within that time paid a State or county tax, which shall have been assessed at least six months before the election, shall enjoy the rights of an elector: *Provided*, That the sons of persons qualified as aforesaid, between the ages of twenty-one and twenty-two years, shall be entitled to vote, although they shall not have paid taxes.

SEC. 2. All elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce*.

SEC. 3. Electors shall, in all cases except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.

Article IV

Section 1. The house of representatives shall have the sole power of impeaching.

Sec. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

Sec. 3. The governor, and all other civil officers under this commonwealth, shall be liable to impeachment for any misdemeanor in office. But judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this commonwealth. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

Article V

Section 1. The judicial power of this commonwealth shall be vested in a supreme court, in courts of oyer terminer and general jail delivery, in a court of common pleas, orphans' court, register's court, and a court of quarter sessions of the peace for each county, in justices of the peace, and in such other courts as the legislature may, from time to time, establish.

Sec. 2. The judges of the supreme court, and of the several courts of common pleas, shall hold their offices during good behavior. But for any reasonable cause, which shall not be sufficient ground of impeachment, the governor may remove any of them, on the address of two-thirds of each branch of the legislature. The judges of the supreme court and the presidents of the several courts of common pleas shall, at stated times, receive for their services and adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit under this commonwealth.

Sec. 3. The jurisdiction of the supreme court shall extend over the State, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail delivery in the several counties.

Sec. 4. Until it shall be otherwise directed by law, the several courts of common pleas shall be established in the following manner: The governor shall appoint, in each county, not fewer than three nor more than four judges, who, during their continuance in office, shall reside in such county. The State shall be divided by law into circuits, none of which shall include more than six nor fewer than three counties. A president shall be appointed of the courts in each circuit, who, during his continuance in office, shall reside therein. The president and judges, any two of whom shall be a quorum, shall compose the respective courts of common pleas.

Sec. 5. The judges of the court of common pleas in each county shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery, for the trial of capital and other offenders therein; any two of the said judges, the president being one, shall be a quorum; but they shall not hold a court of oyer and terminer or jail-delivery in any county when the judges of the supreme court, or any of them,

shall be sitting in the same county. The party accused, as well as the commonwealth, may, under such regulations as shall be prescribed by law, remove the indictment and proceedings, or a transcript thereof, into the supreme court.

Sec. 6. The supreme court and the several courts of common pleas shall, beside the powers heretofore usually exercised by them, have the power of a court of chancery, so far as relates to the perpetuating of testimony, the obtaining of evidence from places not within the State, and the care of the persons and estates of those who are *non compotes mentis*. And the legislature shall vest in the said courts such other powers to grant relief in equity as shall be found necessary; and may, from time to time, enlarge or diminish those powers, or vest them in such other courts as they shall judge proper for the due administration of justice.

Sec. 7. The judges of the court of common pleas of each county, any two of whom shall be a quorum, shall compose the court of quarter sessions of the peace and orphans' court thereof; and the register of wills, together with the said judges, or any two of them, shall compose the register's court of each county.

Sec. 8. The judges of the courts of common pleas shall, within their respective counties, have the like powers with the judges of the supreme court to issue writs of *certiorari* to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

Sec. 9. The president of the courts in each circuit within such circuit, and the judges of the court of common pleas within their respective counties, shall be justices of the peace, so far as relates to criminal matters.

Sec. 10. The governor shall appoint a competent number of justices of the peace, in such convenient districts, in each county, as are or shall be directed by law; they shall be commissioned during good behavior, but may be removed on conviction of misbehavior in office, or of any infamous crime, or on the address of both houses of the legislature.

Sec. 11. A register's office for the probate of wills and granting letters of administration, and an office for the recording of deeds, shall be kept in each county.

Sec. 12. The style of all process shall be, "The commonwealth of Pennsylvania;" all prosecutions shall be carried on in the name and by the authority of the commonwealth of Pennsylvania, and conclude, "against the peace and dignity of the same."

Article VI

Section 1. Sheriffs and coroners shall, at the times and places of election of representatives, be chosen by the citizens of each county; two persons shall be chosen for each office, one of whom, for each respectively, shall be appointed by the governor. They shall hold their offices for three years, if they shall so long behave themselves well, and until a successor be duly qualified; but no person shall be twice chosen or appointed sheriff in any term of six years. Vacancies in either of the said offices shall be filled by a new appointment, to

be made by the governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid.

SEC. 2. The freemen of this commonwealth shall be armed and disciplined for its defence. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service. The militia officers shall be appointed in such manner and for such time as shall be directed by law.

SEC. 3. Prothonotaries, clerks of the peace and orphans' courts, recorders of deeds, registers of wills, and sheriffs shall keep their offices in the county-town of the county in which they respectively shall be officers, unless when the governor shall, for special reasons, dispense therewith for any term, not exceeding five years, after the county shall have been erected.

SEC. 4. All commissions shall be in the name and by the authority of the commonwealth of Pennsylvania, and be sealed with the State seal, and signed by the governor.

SEC. 5. The State treasurer shall be appointed, annually, by the joint vote of the members of both houses. All other officers in the treasury department, attorneys at law, election officers, officers relating to taxes, to the poor and highways, constables, and other township officers, shall be appointed in such manner as is or shall be directed by law.

ARTICLE VII

SECTION 1. The legislature shall, as soon as conveniently may be, provide, by law, for the establishment of schools throughout the State, in such manner that the poor may be taught gratis.

SEC. 2. The arts and sciences shall be promoted in one or more seminaries of learning.

SEC. 3. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the constitution of this State had not been altered or amended.

ARTICLE VIII

Members of the general assembly, and all officers, executive and judicial, shall be bound, by oath or affirmation, to support the constitution of this commonwealth, and to perform the duties of their respective offices with fidelity.

ARTICLE IX

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare—

SECTION 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness. For the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishments or modes of worship.

SEC. 4. That no person, who acknowledges the being of a God and a future state of rewards and punishments, shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this commonwealth.

SEC. 5. That elections shall be free and equal.

SEC. 6. That trial by jury shall be as heretofore, and the right thereof remain inviolate.

SEC. 7. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 8. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that no warrant to search any place, or to seize any person or things, shall issue, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial, by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land.

SEC. 10. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, or, by leave of the court, for oppression and misdemeanor in office. No person shall, for the same offence, be twice put in jeopardy of life or limb; nor shall any man's

property be taken or applied to public use without the consent of his representatives, and without just compensation being made.

Sec. 11. That all courts shall be open, and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the commonwealth in such manner, in such courts, and in such cases as the legislature may by law direct.

Sec. 12. That no power of suspending laws shall be exercised, unless by the legislature or its authority.

Sec. 13. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

Sec. 14. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Sec. 15. That no commission of oyer and terminer or jail-delivery shall be issued.

Sec. 16. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

Sec. 17. That no *ex post facto* law, nor any law impairing contracts, shall be made.

Sec. 18. That no person shall be attainted of treson or felony by the legislature.

Sec. 19. That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth; that the estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

Sec. 20. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

Sec. 21. That the right of citizens to bear arms, in defence of themselves and the State, shall not be questioned.

Sec. 22. That no standing army shall, in time of peace, be kept up without the consent of the legislature; and the military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 23. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Sec. 24. That the legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment of which shall be for a longer term than during good behavior.

Sec. 25. That emigration from the State shall not be prohibited.

Sec. 26. To guard against transgressions of the high powers which we have delegated, we declare, that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate.

SCHEDULE

That no inconvenience may arise from the alterations and amendments in the constitution of this commonwealth, and in order to carry the same into complete operation, it is hereby declared and ordained:

SECTION 1. That all laws of this commonwealth, in force at the time of making the said alterations and amendments in the said constitution, and not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if the said alterations and amendments had not been made.

SEC. 2. That the president and supreme executive council shall continue to exercise the executive authority of this commonwealth, as heretofore, until the third Tuesday of December next; but no intermediate vacancies in the council shall be supplied by new elections.

SEC. 3. That all officers in the appointment of the executive department shall continue in the exercise of the duties of their respective offices until the first day of September, one thousand seven hundred and ninety-one, unless their commissions shall sooner expire by their own limitations, or the said offices become vacant by death or resignation, and no longer, unless reappointed and commissioned by the governor; except that the judges of the supreme court shall hold their offices for the terms in their commissions respectively expressed.

SEC. 4. That justice shall be administered in the several counties of the State, until the period aforesaid, by the same justices, in the same courts, and in the same manner as heretofore.

SEC. 5. That no person now in commission as sheriff shall be eligible at the next election for a longer term than will, with the time which he shall have served in the said office, complete the term of three years.

SEC. 6. That, until the first enumeration shall be made, as directed in the fourth section of the first article of the constitution established by this convention, the city of Philadelphia and the several counties shall be respectively entitled to elect the same number of representatives as is now prescribed by law.

SEC. 7. That the first senate shall consist of eighteen members, to be chosen in districts formed as follows, to-wit: The city of Philadelphia and the counties of Philadelphia and Delaware shall be a district, and elect three senators; the county of Chester shall be a district, and shall elect one senator; the county of Bucks shall be a district, and shall elect one senator; the county of Montgomery shall be a district, and shall elect one senator; the county of Northampton shall be a district, and shall elect one senator; the counties of Lancaster and York shall be a district, and shall elect three senators; the counties of Berks and Dauphin shall be a district, and shall elect two senators; the counties of Cumberland and Mifflin shall be a district, and shall elect one senator; the counties of Northumberland, Luzerne, and Huntingdon shall be a district, and shall elect one senator; the counties of Bedford and Franklin shall be a district, and shall elect one senator; the counties of Westmoreland and Allegheny shall be a district, and shall elect one senator; and the counties of Washing-

ton and Fayette shall be a district, and shall elect two senators, which senators shall serve until the first enumeration before mentioned shall be made, and the representation in both houses of the legislature shall be established by law, and chosen as in the constitution is directed. Any vacancies which shall happen in the senate, within the said time, shall be supplied as prescribed in the nineteenth section of the first article.

SEC. 8. That the elections of senators shall be conducted, and the returns thereof made to the senate, in the same manner as is prescribed by the election-laws of the State for conducting and making return of the election of representatives. In those districts which consist of more than one county, the judges of the district elections within each county, after having formed a return of the whole election within that county, in such manner as is directed by law, shall send the same, by one or more of their number, to the place hereinafter mentioned within the district, of which such county is a part, where the judges so met shall compare and cast up the several county returns, and execute, under their hands and seals, one general and true return for the whole district; that is to say, the judges of the district composed of the city of Philadelphia, and the counties of Philadelphia and Delaware, shall meet in the State-house in the city of Philadelphia; the judges of the district composed of the counties of Lancaster and York shall meet at the court-house in the county of Lancaster; the judges of the district composed of the counties of Berks and Dauphin shall meet at Middletown, in the county of Berks; the judges of the district composed of the counties of Cumberland and Mifflin shall meet in Greenwood township, county of Cumberland, at the house now occupied by David Miller; the judges of the district composed of the counties of Northumberland, Luzerne, and Huntingdon shall meet in the town of Sunbury; the judges of the district composed of the counties of Bedford and Franklin shall meet at the house now occupied by John Dickey, in Air township, Bedford County; the judges of the district composed of the counties of Westmoreland and Allegheny shall meet in Westmoreland County, at the court-house in the town of Greensborough; and the judges of the district composed of the counties of Washington and Fayette shall meet at the court-house in the town of Washington, in Washington County, on the third Tuesday in October, respectively, for the purposes aforesaid.

SEC. 9. That the election of the governor shall be conducted in the several counties in the manner prescribed by the laws of the State for the election of representatives; and the returns in each county shall be sealed by the judges of the elections, and transmitted to the president of the supreme executive council, directed to the speaker of the senate, as soon after the election as may be.

Done in convention, the second day of September, in the year of our Lord one thousand seven hundred and ninety, and of the Independence of the United States of America the fifteenth. In testimony whereof we have hereunto subscribed our names.

THOMAS MIFFLIN, *President.*

JOSEPH REDMAN, *Secretary.*
J. SHALLUS, *Assistant Secretary.*

CONSTITUTION OF PENNSYLVANIA—1838 * [a]

We, the people of the commonwealth of Pennsylvania, ordain and establish this constitution for its government.

Article I

OF THE LEGISLATURE

Section 1.[b] The legislative power of this commonwealth shall be vested in a general assembly, which shall consist of a senate and house of representatives.

Sec. 2. The representatives shall be chosen annually, by the citizens of the city of Philadelphia, and of each county respectively, on the second Tuesday of October.

Sec. 3. No person shall be a representative who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State three years next preceding his election, and the last year thereof an inhabitant of the district in and for which he shall be chosen a representative, unless he shall have been absent on the public business of the United States or of this State.

Sec. 4.[b] Within three years after the first meeting of the general assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the city of Philadelphia and the several counties, according to the number of taxable inhabitants in each; and shall never be less than sixty nor greater than one hundred. Each county shall have at least one representative, but no county hereafter erected shall be entitled to a separate representation until a sufficient number of taxable inhabitants shall be contained within it to entitle them to one representative, agreeably to the ratio of which shall then be established.

Sec. 5.[b] The senators shall be chosen for three years by the citizens of Philadelphia and of the several counties, at the same time, in the same manner, and at the same places where they shall vote for representatives.

Sec. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature,

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* Verified by Vol. 14 of "Proceedings and Debates"; see below.

"Journal of the Convention of the State of Pennsylvania to propose amendments to the Constitution, Commenced and Held at the State Capitol, in Harrisburg, on the second day of May, 1837. Harrisburg: Printed by Thompson & Clark, 1837, pp. 852.

"Proceedings and Debates of the Convention of the Commonwealth of Pennsylvania, to propose amendments to the Constitution, Commenced and held at Harrisburg, on the second day of May, 1837. Reported by John Agg; stenographer to the Convention; Assisted by Messrs. Kingman, Drake and McKinley. Printed by Packer, Barrett and Parke; Keystone Office, Harrisburg; 1837, 14 vols.

[a] This constitution was framed by a convention which assembled at Harrisburgh May 2, 1837, adjourned in July until October, and adjourned in December to Philadelphia, where it completed its labors February 22, 1838. It was ratified by the people by a vote of 113,971 votes against 112,759 votes.

[b] See amendments.

and apportioned among the districts formed as hereinafter directed, according to the number of taxable inhabitants in each; and shall never be less than one-fourth, nor greater than one-third, of the number of representatives.

SEC. 7.[a] The senators shall be chosen in districts, to be formed by the legislature; but no district shall be so formed as to entitle it to elect more than two senators, unless the number of taxable inhabitants in any city or county shall, at any time, be such as to entitle it to elect more than two, but no city or county shall be entitled to elect more than four senators; when a district shall be composed of two or more counties, they shall be adjoining; neither the city of Philadelphia nor any county shall be divided in forming a district.

SEC. 8. No person shall be a senator who shall not have attained the age of twenty-five years, and have been a citizen and inhabitant of the State for four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State; and no person elected as aforesaid shall hold said office after he shall have removed from such district.

SEC. 9. The senators who may be elected at the first general election after the adoption of the amendments to the constitution, shall be divided by lot into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year; so that thereafter one-third of the whole number of senators may be chosen every year. The senators elected before the amendments to the constitution shall be adopted shall hold their offices during the terms for which they shall respectively have been elected.

SEC. 10. The general assembly shall meet on the first Tuesday of January in every year, unless sooner convened by the governor.

SEC. 11. Each house shall choose its speaker and other officers; and the senate shall also choose a speaker *pro tempore* when the speaker shall exercise the office of governor.

SEC. 12. Each house shall judge of the qualifications of its members. Contested elections shall be determined by a committee, to be selected, formed, and regulated in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members in such manner and under such penalties as may be provided.

SEC. 13. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free State.

SEC. 14. The legislature shall not have power to enact laws annulling the contract of marriage in any case where, by law, the courts of this commonwealth are, or hereafter may be, empowered to decree a divorce.

SEC. 15. Each house shall keep a journal of its proceedings and publish them weekly, except such part as may require secrecy; and

[a] See amendment.

the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 16. The doors of each house and of committees of the whole shall be open, unless when the business shall be such as ought to be kept secret.

SEC. 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 18. The senators and representatives shall receive a compensation for their services to be ascertained by law, and paid out of the treasury of the commonwealth. They shall in all cases, except treason, felony, and breach of surety of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same. And for any speech or debate in either house they shall not be questioned in any other place.

SEC. 19. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth which shall have been created, or the emoluments of which shall have been increased, during such time; and no member of Congress or other person holding any office (except of attorney at law and in the militia) under the United States or this commonwealth, shall be a member of either house during his continuance in Congress or in office.

SEC. 20. When vacancies happen in either house, the speaker shall issue writs of election to fill such vacancies.

SEC. 21. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments, as in other bills.

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 23. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it; but if he shall not approve, he shall return it, with his objection, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered, and if approved by two-thirds of that house it shall be a law. But in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within ten days (Sunday excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevented its return, in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 24. Every order, resolution, or vote to which the concurrence of both houses may be necessary (except on a question of adjournment) shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 25. No corporate body shall be hereafter created, renewed, or extended, with banking or discounting privileges, without six months' previous public notice of the intended application for the same in such manner as shall be prescribed by law. Nor shall any charter for the purposes aforesaid be granted for a longer period than twenty years; and every such charter shall contain a clause reserving to the legislature the power to alter, revoke, or annul the same, whenever in their opinion it may be injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation.

ARTICLE II

SECTION 1. The supreme executive power of this commonwealth shall be vested in a governor.

SEC. 2. The governor shall be chosen on the second Tuesday of October, by the citizens of the commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the senate, who shall open and publish them in the presence of the members of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. Contested elections shall be determined by a committee to be selected from both houses of the legislature, and formed and regulated in such manner as shall be directed by law.

SEC. 3. The governor shall hold his office during three years from the third Tuesday of January next ensuing his election, and shall not be capable of holding it longer than six in any term of nine years.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of this State seven years next before his election; unless he shall have been absent on the public business of the United States or of this State.

SEC. 5. No member of Congress, or person holding any office under the United States or this State, shall exercise the office of governor.

SEC. 6. The governor shall, at stated times, receive for his services a compensation, which shall be neither increased nor diminished during the period for which he shall have been elected.

SEC. 7. He shall be commander-in-chief of the army and navy of this commonwealth, and of the militia, except when they shall be called into the actual service of the United States.

SEC. 8.[a] He shall appoint a secretary of the commonwealth during pleasure, and he shall nominate and, by and with the advice and consent of the senate, appoint all judicial officers of courts of record, unless otherwise provided for in this constitution. He shall have power to fill all vacancies that may happen in such judicial offices during the recess of the senate, by granting commissions, which shall expire at the end of their next session: *Provided*, That in acting on executive nominations the senate shall sit with open doors, and in confirming or rejecting the nominations of the governor the votes shall be taken by yeas and nays.

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[a] See amendments.

SEC. 9. He shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment.

SEC. 10. He may require information in writing from the officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. He may, on extraordinary occasions, convene the general assembly; and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

SEC. 13. He shall take care that the laws be faithfully executed.

SEC. 14. In case of the death or resignation of the governor, or his removal from office, the speaker of the senate shall exercise the office of governor until another governor shall be duly qualified; but in such case another governor shall be chosen at the next annual election of representatives, unless such death, resignation, or removal shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election of representatives. And if the trial of a contested election shall continue longer than until the third Monday of January next ensuing the election of governor, the governor of the last year or the speaker of the senate who may be in the exercise of the executive authority shall continue therein until the determination of such contested election, and until a governor shall be duly qualified as aforesaid.

SEC. 15. The secretary of the commonwealth shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes, and vouchers relative thereto before either branch of the legislature, and shall perform such other duties as shall be enjoined him by law.

ARTICLE III

OF ELECTIONS

SECTION 1. In elections by the citizens, every white freeman of the age of twenty-one years, having resided in this State one year, and in the election-district where he offers to vote ten days immediately preceding such election, and within two years paid a State or county tax, which shall have been assessed at least ten days before the election, shall enjoy the rights of an elector. But a citizen of the United States, who had previously been a qualified voter of this State and removed therefrom and returned, and who shall have resided in the election-district and paid taxes as aforesaid, shall be entitled to vote after residing in the State six months: *Provided*, That white freemen, citizens of the United States, between the ages of twenty-one and twenty-two years, and having resided in the State one year and in the election-district ten days as aforesaid, shall be entitled to vote, although they shall not have paid taxes.

SEC. 2. All elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce*.

SEC. 3. Electors shall in all cases, except treason, felony, and breach of surety of the peace, be privileged from arrest during their attendance on elections and in going to and returning from them.

ARTICLE IV

OF IMPEACHMENT

SECTION 1. The house of representatives shall have the sole power of impeachment.

SEC. 2. All impeachments shall be tried by the senate; when sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all other civil officers under this commonwealth shall be liable to impeachment for any misdemeanor in office; but judgment, in such cases, shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this commonwealth; the party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

ARTICLE V

OF THE JUDICIARY

SECTION 1. The judicial power of this commonwealth shall be vested in a supreme court, in courts of over and terminer and general-jail delivery, in a court of common pleas, orphans' court, rigisters' court, and a court of quarter sessions of the peace for each county, in justices of the peace, and in such other courts as the legislature may from time to time establish.

SEC. 2.[a] The judges of the supreme court, of the several courts of common pleas, and of such other courts of record as are or shall be established by law, shall be nominated by the governor and, by and with the consent of the senate, appointed and commissioned by him. The judges of the supreme court shall hold their offices for the term of fifteen years, if they shall so long behave themselves well. The president judges of the several courts of common pleas, and of such other courts of record as are or shall be established by law, and all other judges, required to be learned in the law, shall hold their offices for the term of ten years, if they shall so long behave themselves well. The associate judges of the courts of common pleas shall hold their offices for the term of five years, if they shall so long behave themselves well. But for any reasonable cause, which shall not be sufficient ground of impeachment, the governor may remove any of them on the address of two-thirds of each branch of the legislature. The judges of the supreme court and the presidents of the several courts of common pleas shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no

[a] See amendments.

fees or perquisites of office, nor hold any other office of profit under this commonwealth.

SEC. 3. Until otherwise directed by law, the courts of common pleas shall continue as at present established. Not more than five counties shall at any time be included in one judicial district organized for said courts.

SEC. 4. The jurisdiction of the supreme court shall extend over the State, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery, in the several counties.

SEC. 5. The judges of the court of common pleas in each county shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery, for the trial of capital and other offenders therein; any two of said judges, the president being one, shall be a quorum; but they shall not hold a court of oyer and terminer, or jail-delivery, in any county, when the judges of the supreme court, or any of them, shall be sitting in the same county. The party accused, as well as the commonwealth, may, under such regulations as shall be prescribed by law, remove the indictment and proceedings, or a transcript thereof, into the supreme court.

SEC. 6. The supreme court, and the several courts of common pleas, shall, beside the powers heretofore usually exercised by them, have the powers of a court of chancery, so far as relates to the perpetuating of testimony, the obtaining of evidence from places not within the State, and the care of the persons and estates of those who are *non compotes mentis*. And the legislature shall vest in the said courts such other powers to grant relief in equity as shall be found necessary; and may, from time to time, enlarge or diminish those powers, or vest them in such other courts as they shall judge proper, for the due administration of justice.

SEC. 7. The judges of the court of common pleas of each county, any two of whom shall be a quorum, shall compose the court of quarter sessions of the peace, and orphans' court thereof; and the register of wills, together with the said judges, or any two of them, shall compose the register's court of each county.

SEC. 8. The judges of the courts of common pleas shall, within their respective counties, have like powers with the judges of the supreme court, to issue writs of *certiorari* to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

SEC. 9. The president of the court in each circuit within such circuit, and the judges of the court of common pleas within their respective counties, shall be justices of the peace, so far as relates to criminal matters.

SEC. 10. A register's office, for the probate of wills and granting letters of administration, and an office for the recording of deeds, shall be kept in each county.

SEC. 11. The style of all process shall be "The commonwealth of Pennsylvania." All prosecutions shall be carried on in the name and by the authority of the commonwealth of Pennsylvania, and conclude, "against the peace and dignity of the same."

Article VI

of sheriffs and coroners

Section 1. Sheriffs and coroners shall, at the times and places of election of representatives, be chosen by the citizens of each county. One person shall be chosen for each office, who shall be commissioned by the governor. They shall hold their offices for three years, if they shall so long behave themselves well, and until a successor be duly qualified; but no person shall be twice chosen or appointed sheriff in any term of six years. Vacancies in either of the said offices shall be filled by an appointment, to be made by the governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid.

Sec. 2. The freemen of this commonwealth shall be armed, organized, and disciplined for its defence, when and in such manner as may be directed by law. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

Sec. 3. Prothonotaries of the supreme court shall be appointed by the said court for the term of three years, if they so long behave themselves well. Prothonotaries and clerks of the several other courts, recorders of deeds, and registers of wills, shall, at the times and places of election of representatives, be elected by the qualified electors of each county, or the districts over which the jurisdiction of said courts extends, and shall be commissioned by the governor. They shall hold their offices for three years, if they shall so long behave themselves well, and until their successors shall be duly qualified. The legislature shall provide by law the number of persons in each county who shall hold said offices, and how many and which of said offices shall be held by one person. Vacancies in any of the said offices shall be filled by appointments to be made by the governor, to continue until the next general election, and until successors shall be elected and qualified as aforesaid.

Sec. 4. Prothonotaries, clerks of the peace and orphans' courts, recorders of deeds, registers of wills, and sheriffs, shall keep their offices in the county-town of the county in which they, respectively, shall be officers, unless when the governor shall, for special reasons, dispense therewith, for any term not exceeding five years after the county shall have been erected.

Sec. 5. All commissions shall be in the name and by the authority of the commonwealth of Pennsylvania, and be sealed with the State seal and signed by the governor.

Sec. 6. A State treasurer shall be elected annually, by joint vote of both branches of the legislature.

Sec. 7. Justices of the peace or aldermen shall be elected in the several wards, boroughs, and townships, at the time of the election of constables, by the qualified voters thereof, in such number as shall be directed by law, and shall be commissioned by the governor for a term of five years. But no township, ward, or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward, or borough.

Sec. 8. All officers whose election or appointment is not provided for in this constitution shall be elected or appointed as shall be directed by law. No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this State, or any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any office in this State to which a salary is, or fees or perquisites are, by law, annexed; and the legislature may by law declare what State offices are incompatible. No member of the senate or of the house of representatives shall be appointed by the governor to any office during the term for which he shall have been elected.

Sec. 9. All officers for a term of years shall hold their offices for the terms respectively specified, only on the condition that they so long behave themselves well; and shall be removed on conviction of misbehavior in office or of any infamous crime.

Sec. 10. Any person who shall, after the adoption of the amendments proposed by this convention to the constitution, fight a duel, or send a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this State; and shall be punished otherwise in such manner as is or may be prescribed by law; but the executive may remit the said offence and all its disqualifications.

Article VII

EDUCATION

Section 1. The legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the State, in such manner that the poor may be taught gratis.

Sec. 2. The arts and sciences shall be promoted in one or more seminaries of learning.

Sec. 3. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the constitution of this State had not been altered or amended.

Sec. 4. The legislature shall not invest any corporate body or individual with the privilege of taking private property for public use, without requiring such corporation or individual to make compensation to the owners of said property, or give adequate security therefor, before such property shall be taken.

Article VIII

OATHS OF OFFICE

Members of the general assembly, and officers executive and judicial, shall be bound by oath or affirmation to support the constitution of this commonwealth, and to perform the duties of their respective offices with fidelity.

Article IX

DECLARATION OF RIGHTS

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare—

Section 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

Sec. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. For the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any such case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishments or modes of worship.

Sec. 4. That no person who acknowledges the being of God and a future state of rewards and punishments, shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this commonwealth.

Sec. 5. That the elections shall be free and equal.

Sec. 6. That trial by jury shall be as heretofore, and the right thereof remain inviolate.

Sec. 7. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. In prosecution for the publication of papers investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

Sec. 8. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

Sec. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to

have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy trial by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land.

SEC. 10. That no person shall, for any indictable offence, be proceeded against criminally by information; except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; or by leave of the court for oppression and misdemeanor in office. No person shall for the same offence be twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives and without just compensation being made.

SEC. 11. That all courts shall be open, and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the commonwealth in such manner, in such courts, and in such cases as the legislature may, by law, direct.

SEC. 12. That no power of suspending laws shall be exercised, unless by the legislature or its authority.

SEC. 13. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 14. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 15. That no commission of oyer and terminer or jail-delivery shall be issued.

SEC. 16. That the person of a debtor, where there is not strong presumption of fraud shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

SEC. 17. That no *ex post facto* law, nor any law impairing contracts, shall be made.

SEC. 18. That no person shall be attainted of treason or felony by the legislature.

SEC. 19. That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth; that the estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 20. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, redress, or remonstrance.

SEC. 21. That the right of the citizens to bear arms, in defence of themselves and the State, shall not be questioned.

SEC. 22. That no standing army shall, in time of peace, be kept up, without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 23. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

SEC. 24. That the legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

SEC. 25. That emigration from the State shall not be prohibited.

SEC. 26. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate.

ARTICLE X

OF AMENDMENTS

Any amendment or amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by a majority of the members elected to each house, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of the commonwealth shall cause the same to be published three months before the next election, in at least one newspaper in every county in which a newspaper shall be published; and if in the legislature next afterward chosen such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of the commonwealth shall cause the same again to be published in manner aforesaid, and such proposed amendment or amendments shall be submitted to the people in such manner and at such time, at least three months after being so agreed to by the two houses, as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majorty of the qualified voters of this State voting thereon, such amendment or amendments shall become a part of the constitution, but no amendment or amendments shall be submitted to the people oftener than once in five years: *Provided*, That if more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly.

SCHEDULE

That no inconvenience may arise from the alterations and amendments in the constitution of this commonwealth, and in order to carry the same into complete operation, it is hereby declared and ordained that—

SECTION 1. All laws of this commonwealth in force at the time when the said alterations and amendments in the said constitution shall take effect, and not inconsistent therewith, and all rights, prosecutions, actions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if the said alterations and amendments had not been made.

SEC. 2. The alterations and amendments in the said constitution shall take effect from the first day of January, eighteen hundred and thirty-nine.

SEC. 3. The clauses, sections, and articles of the said constitution which remain unaltered, shall continue to be construed and have effect as if the said constitution had not been amended.

SEC. 4. The general assembly which shall convene in December, eighteen hundred and thirty-eight, shall continue its session, as heretofore, notwithstanding the provision in the eleventh section of the first article, and shall at all times be regarded as the first general assembly under the amended constitution.

SEC. 5. The governor who shall be elected in October, eighteen hundred and thirty-eight, shall be inaugurated on the third Tuesday in January, eighteen hundred and thirty-nine; to which time the present executive term is hereby extended.

SEC. 6. The commissions of the judges of the supreme court who may be in office on the first day of January next shall expire in the following manner: The commission which bears the earliest date shall expire on the first day of January, anno Domini one thousand eight hundred and forty-two; the commission next dated shall expire on the first day of January, anno Domini one thousand eight hundred and forty-five; the commission next dated shall expire on the first day of January, anno Domini one thousand eight hundred and forty-eight; the commission next dated shall expire on the first day of January, anno Domini one thousand eight hundred and fifty-one; and the commission last dated shall expire on the first day of January, anno Domini one thousand eight hundred and fifty-four.

SEC. 7. The commissions of the president judges of the several judicial districts, and of the associate law judges of the first judicial districts, shall expire as follows: The commissions of one-half of those who shall have held their offices ten years or more, at the adoption of the amendments to the constitution, shall expire on the twenty-seventh day of February, one thousand eight hundred and thirty-nine; the commissions of the other half of those who shall have held their offices ten years or more, at the adoption of the amendments to the constitution, shall expire on the twenty-seventh day of February, one thousand eight hundred and forty-two; the first half to embrace those whose commissions shall bear the oldest date. The commissions of all the remaining judges who shall not have held their offices for ten years, at the adoption of the amendments to the constitution, shall expire on the twenty-seventh day of February next after the end of ten years from the date of their commissioins.

SEC. 8. The recorders of the several mayors' courts in this commonwealth shall be appointed for the same time and in the same manner as the president judges of the several judicial districts; of those now in office, the commission oldest in date shall expire on the twenty-seventh day of February, one thousand eight hundred and forty-one, and the others every two years thereafter according to their respective dates; those oldest in date expiring first.

SEC. 9. The legislature, at its first session under the amended constitution, shall divide the other associate judges of the State into four classes. The commissions of those of the first class shall expire on the twenty-seventh day of February, eighteen hundred and forty; of those of the second class on the twenty-seventh day of February, eighteen hundred and forty-one; of those of the third class on the twenty-seventh day of February, eighteen hundred and forty-two;

and of those of the fourth class on the twenty-seventh day of February, eighteen hundred and forty-three. The said classes, from the first to the fourth, shall be arranged according to the seniority of the commissions of the several judges.

SEC. 10. Prothonotaries, clerks of the several courts, (except of the supreme court,) recorders of deeds, and registers of wills, shall be first elected under the amended constitution at the election of representatives, in the year eighteen hundred and thirty-nine, in such manner as may be prescribed by law.

SEC. 11. The appointing power shall remain as heretofore, and all officers in the appointment of the executive department shall continue in the exercise of the duties of their respective offices until the legislature shall pass such laws as may be required by the eighth section of the sixth article of the amended constitution, and until appointments shall be made under such laws, unless their commissions shall be superseded by new appointments, or shall sooner expire by their own limitations, or the said offices shall become vacant by death or resignation, and such laws shall be enacted by the first legislature under the amended constitution.

SEC. 12. The first election for aldermen and justices of the peace shall be held in the year eighteen hundred and forty, at the time fixed for the election of constables. The legislature, at its first session under the amended constitution, shall provide for the said election and for subsequent similar elections. The aldermen and justices of the peace now in commission, or who may in the interim be appointed, shall continue to discharge the duties of their respective offices until fifteen days after the day which shall be fixed by law for the issuing of new commissions, at the expiration of which time their commissions shall expire.

In testimony that the foregoing is the amended constitution of Pennsylvania, as agreed to in convention, we, the officers and members of the convention, have hereunto signed our names, at Philadelphia, the twenty-second day of February, anno Domini one thousand eight hundred and thirty-eight, and of the Independence of the United States of America the sixty-second.

JOHN SERGEANT, *President.*

S. SHOCH, *Secretary.*
GEORGE L. FAUSS,
J. WILLIAMS,
Assistant Secretaries.

AMENDMENTS TO THE CONSTITUTION OF 1838

(Ratified 1850)

ART. V. SEC. 2. The judges of the supreme court, of the several courts of common pleas, and of such other courts of record as are or shall be established by law, shall be elected by the qualified electors of the commonwealth in the manner following, to wit: The judges of the supreme court, by the qualified electors of the commonwealth at large; the president judges of the several courts of common pleas and of such other courts of record as are or shall be established by law, and all other judges required to be learned in the law, by the qualified

electors of the respective districts over which they are to preside or act as judges; and the associate judges of the courts of common pleas, by the qualified electors of the counties respectively. The judges of the supreme court shall hold their offices for the term of fifteen years, if they shall so long behave themselves well, (subject to the allotment hereinafter provided for, subsequent to the first election); the president judges of the several courts of common pleas, and of such other courts of record as are or shall be established by law, and all other judges required to be learned in the law, shall hold their offices for the term of ten years, if they shall so long behave themselves well; the associate judges of the courts of common pleas shall hold their offices for the term of five years, if they shall so long behave themselves well: all of whom shall be commissioned by the governor, but for any reasonable cause, which shall not be sufficient grounds of impeachment, the governor shall remove any of them on the address of two-thirds of each branch of the legislature. The first election shall take place at the general election of this commonwealth next after the adoption of this amendment, and the commissions of all the judges who may be then in office shall expire on the first Monday of December following, when the terms of the new judges shall commence. The persons who shall then be elected judges of the supreme court shall hold their offices as follows: One of them for three years, one for six years, one for nine years, one for twelve years, and one for fifteen years, the term of each to be decided by lot by the said judges as soon after the election as convenient, and the result certified by them to the governor, that the commissions may be issued in accordance thereto. The judge whose commission will first expire shall be chief justice during his term, and thereafter each judge whose commission shall first expire shall in turn be the chief justice, and if two or more commissions shall expire on the same day, the judges holding them shall decide by lot which shall be the chief justice. Any vacancies happening by death, resignation, or otherwise, in any of the said courts, shall be filled by appointment by the governor, to continue till the first Monday of December succeeding the next general election. The judges of the supreme court and the presidents of the several courts of common pleas shall at stated times receive for their service an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office, but they shall receive no fees or perquisites of office, nor hold any other office of profit under this commonwealth, or under the Government of the United States, or any other State of this Union. The judges of the supreme court during their continuance in office shall reside within this commonwealth, and the other judges during their continuance in office shall reside within the district or county for which they were respectively elected.

(Ratified 1857)

Article I. Sec. 2. From section two of the first article of the constitution strike out the words "of the city of Philadelphia, and of each county respectively;" from section five, same article, strike out the words "of Philadelphia and of the several counties;" from section seven, same article, strike out the words "neither the city of Philadelphia nor any;" and insert in lieu thereof the following

words: "And no;" and strike out section four, same article, and in lieu thereof insert the following:

"SEC. 4. In the year one thousand eight hundred and sixty-four, and in every seventh year thereafter, representatives to the number of one hundred shall be apportioned and distributed equally throughout the State by districts, in proportion to the number of taxable inhabitants in the several parts thereof; except that any county containing at least three thousand five hundred taxables may be allowed a separate representation; but no more than three counties shall be joined, and no county shall be divided in the formation of a district. Any city containing a sufficient number of taxables to entitle it to at least two representatives, shall have a separate representation assigned it, and shall be divided into convenient districts of contiguous territory, of equal taxable population as near as may be, each of which districts shall elect one representative."

At the end of section seven, same article, insert these words: "The city of Philadelphia shall be divided into single senatorial districts of contiguous territory, as nearly equal in taxable population as possible; but no ward shall be divided in the formation thereof."

The legislature, at its first session after the adoption of this amendment, shall divide the city of Philadelphia into senatorial and representative districts in the manner above provided; such districts to remain unchanged until the apportionment in the year one thousand eight hundred and sixty-four.

ARTICLE I. *To be* SEC. 26. The legislature shall have the power to alter, revoke, or annul any charter of incorporation hereafter conferred by or under any special or general law whenever in their opinion it may be injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done to the corporators.

ART. XI. *Added:* SEC. 1. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for, but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly or at different periods of time, shall never exceed seven hundred and fifty thousand dollars, and the money arising from the creation of such debts shall be applied to the purposes for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 2. In addition to the above limited power, the State may contract debts to repel invasion, suppress insurrection, defend the State in war, or to redeem the present outstanding indebtedness of the State; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised or to repay such debts, and to no other purpose whatever.

SEC. 3. Except the debts above specified in sections one and two of this article, no debt whatever shall be created by or on behalf of the State.

SEC. 4. To provide for the payment of the present debt, and any additional debt contracted as aforesaid, the legislature shall, at its first session after the adoption of this amendment, create a sinking-fund, which shall be sufficient to pay the accruing interest on such debt and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; which sinking-fund shall consist of the net annual income of the public works from time

to time owned by the State, or the proceeds of the sale of the same or any part thereof, and of the income or proceeds of sale of stocks owned by the State, together with other funds or resources that may be designated by law. The said sinking-fund may be increased from time to time by assigning to it any part of the taxes or other revenues of the State not required for the ordinary and current expenses of government, and, unless in case of war, invasion, or insurrection, no part of the said sinking-fund shall be used or applied otherwise than in extinguishment of the public debt, until the amount of such debt is reduced below the sum of five millions of dollars.

SEC. 5. The credit of the commonwealth shall not in any manner or event be pledged or loaned to any individual, company, corporation, or association, nor shall the commonwealth hereafter become a joint owner or stockholder in any company, association, or corporation.

SEC. 6. The commonwealth shall not assume the debt, or any part thereof, of any county, city, borough, or township, or of any corporation or association, unless such debt shall have been contracted to enable the State to repel invasion, suppress domestic insurrection, defend itself in time of war, or to assist the State in the discharge of any portion of its present indebtedness.

SEC. 7. The legislature shall not authorize any county, city, borough, township, or corporated district, by virtue of a vote of its citizens or otherwise, to become a stockholder in any company, association, or corporation, or to obtain money for or loan its credit to any corporation, association, institution, or party.

ART. XII. *Added:* No county shall be divided by a line cutting off over one-tenth of its population (either to form a new county or otherwise) without the express assent of such county, by a vote of the electors thereof, nor shall any new county be established containing less than four hundred square miles.

(Ratified 1864)

ART. III. *Added:* SEC. 4. Whenever any of the qualified electors of this commonwealth shall be in any actual military service, under a requisition from the President of the United States or by the authority of this commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual place of election.

ART. XI. *Added:* SEC. 8. No bill shall be passed by the legislature containing more than one subject, which shall be expressed in the title, except appropriation bills.

SEC. 9. No bill shall be passed by the legislature granting any powers or privileges, in any case, where the authority to grant such powers or privileges has been or may hereafter be conferred upon the courts of this commonwealth.

(Ratified 1872)

Strike out the sixth section of the sixth article of the Constitution, and insert in lieu thereof the following:—"A State Treasurer shall be chosen by the qualified electors of the State, at such times and for such term of service as shall be prescribed by law."

CONSTITUTION OF PENNSYLVANIA—1873 *

PREAMBLE

We, the people of the Commonwealth of Pennsylvania, grateful to Almighty God for the blessings of civil and religious liberty, and humbly invoking His guidance, do ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the general, great and essential principles of liberty and free government may be recognized and unalterably established, we declare that—

SECTION 1. All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends they have at all times an alienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper.

SEC. 3. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience and no preference shall ever be given by law to any religious establishments or modes of worship.

SEC. 4. No person who acknowledges the being of a God, and a future state of rewards and punishments shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this Commonwealth.

SEC. 5. Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 6. Trial by jury shall be as heretofore, and the right thereof remain inviolate.

SEC. 7. The printing press shall be free to every person who may undertake to examine the proceedings of the Legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for

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* The Constitution of the Commonwealth of Pennsylvania. Adopted by the Constitutional Convention November 3, 1873; ratified and adopted by the people at a special election held December 16, 1873; went into effect January 1, 1874, and as amended November 5, 1901. Wm. Stanley Ray, State Printer of Pennsylvania. 1902. pp. 41.

the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 8. The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant.

SEC. 9. In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land.

SEC. 10. No person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanor in office. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

SEC. 11. All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct.

SEC. 12. No power of suspending laws shall be exercised unless by the Legislature or by its authority.

SEC. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 14. All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

SEC. 15. No commission of oyer and terminer or jail delivery shall be issued.

SEC. 16. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

SEC. 17. No ex post facto law, nor any law impairing the obligation of contracts, or making irrevocable any grant of special privileges or immunities, shall be passed.

SEC. 18. No person shall be attainted of treason or felony by the Legislature.

SEC. 19. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the Commonwealth. The estate of such persons as shall destroy their own lives lives shall descend or vest as in cases of natural death, and if any person shall be killed by casualty there shall be no forfeiture by reason thereof.

SEC. 20. The citizens have a right in a peaceable manner to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

SEC. 21. The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.

SEC. 22. No standing army shall, in time of peace, be kept up without the consent of the Legislature, and the military shall in all cases and at all time be in strict subordination to the civil power.

SEC. 23. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

SEC. 24. The Legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

SEC. 25. Emigration from the State shall not be prohibited.

SEC. 26. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

ARTICLE II

THE LEGISLATURE

SEC. 1. The legislative power of this Commonwealth shall be vested in a General Assembly which shall consist of a Senate and a House of Representatives.

SEC. 2. Members of the General Assembly shall be chosen at the general election every second year. Their term of service shall begin on the first day of December next after their election. Whenever a vacancy shall occur in either House, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term.

SEC. 3. Senators shall be elected for the term of four years and Representatives for the term of two years.

SEC. 4. The General Assembly shall meet at twelve o'clock, noon, on the first Tuesday of January every second year, and at other times when convened by the Governor, but shall hold no adjourned annual session after the year one thousand eight hundred and seventy-eight. In case of a vacancy in the office of United States Senator from this Commonwealth, in a recess between sessions, the Governor shall convene the two Houses, by proclamation on notice not exceeding sixty days, to fill the same.

SEC. 5. Senators shall be at least twenty-five years of age and Representatives twenty-one years of age. They shall have been citizens and inhabitants of the State four years, and inhabitants of their

respective districts one year next before their election (unless absent on the public business of the United States or of this State), and shall reside in their respective districts during their terms of service.

SEC. 6. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this Commonwealth, and no member of Congress, or other person, holding any office (except of attorney-at-law or in the militia) under the United States, or this Commonwealth, shall be a member of either House during his continuance in office.

SEC. 7. No person hereafter convicted of embezzlement of public moneys, bribery, perjury or other infamous crime, shall be eligible to the General Assembly, or capable of holding any office of trust or profit in this Commonwealth.

SEC. 8. The members of the General Assembly shall receive such salary and mileage for regular and special sessions as shall be fixed by law, and no other compensation whatever, whether for service upon committee or otherwise. No member of either House shall during the term for which he may have been elected, receive any increase of salary, or mileage, under any law passed during such term.

SEC. 9. The Senate shall at the beginning and close of each regular session and at such other times as may be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant Governor, in any case of absence or disability of that officer, and whenever the said office of Lieutenant Governor shall be vacant. The House of Representatives shall elect one of its members as Speaker. Each House shall choose its other officers, and shall judge of the election and qualifications of its members.

SEC. 10. A majority of each House shall constitute a quorum, but a smaller number may adjourn from day to-day and compel the attendance of absent members.

SEC. 11. Each House shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence or offers of bribes or private solicitation, and, with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the Legislature of a free State. A member expelled for corruption shall not thereafter be eligible to either House, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

SEC. 12. Each House shall keep a journal of its proceedings and from time to time publish the same, except such parts as require secrecy, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

SEC. 13. The sessions of each House and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.

SEC. 14. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 15. The members of the General Assembly shall in all cases, except treason, felony, violation of their oath of office, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses and in going to

and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

Sec. 16. The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

Sec. 17. The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives, according to its population, but no district shall elect more than four representatives.

Sec. 18. The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.

Article III

LEGISLATION

Section 1. No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.

Sec. 2. No bill shall be considered unless referred to a committee, returned therefrom, and printed for the use of the members.

Sec. 3. No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title.

Sec. 4. Every bill shall be read at length on three different days in each House; all amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill, and no

bill shall become a law, unless on its final passage the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of the members elected to each House be recorded thereon as voting in its favor.

SEC. 5. No amendment to bills by one House shall be concurred in by the other, except by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either House only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journals.

SEC. 6. No law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length.

SEC. 7. The General Assembly shall not pass any local or special law:

Authorizing the creation, extension or impairing of liens:

Regulating the affairs of counties, cities, townships, wards, boroughs or school districts:

Changing the names of persons or places:

Changing the venue in civil or criminal cases:

Authorizing the laying out, opening, altering or maintaining, roads, highways, streets or alleys:

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State:

Vacating roads, town plats, streets or alleys:

Relating to cemeteries, graveyards or public grounds not of the State:

Authorizing the adoption or legitimation of children:

Locating or changing county seats, erecting new counties or changing county lines:

Incorporating cities, towns or villages, or changing their charters:

For the opening and conducting of elections, or fixing or changing the place of voting:

Granting divorces:

Erecting new townships or boroughs, changing township lines, borough limits or school districts:

Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts:

Changing the law of descent or succession:

Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate:

Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables:

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes:

Fixing the rate of interest:

Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment:

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury:

Exempting property from taxation:

Regulating labor, trade, mining or manufacturing:

Creating corporations, or amending, renewing or extending the charters thereof:

Granting to any corporation, association or individual any special or exclusive privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track:

Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed:

Nor shall any law be passed granting powers or privileges in any case where the granting of such powers and privileges shall have been provided for by general law, nor where the courts have jurisdiction to grant the same or give the relief asked for.

SEC. 8. No local or special bill shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be affected may be situated, which notice shall be at least thirty days prior to the introduction into the General Assembly of such bill and in the manner to be provided by law; the evidence of such notice having been published, shall be exhibited in the General Assembly, before such act shall be passed.

SEC. 9. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the General Assembly, after their titles have been publicly read immediately before signing; and the fact of signing shall be entered on the journal.

SEC. 10. The General Assembly shall prescribe by law the number, duties and compensation of the officers and employes of each House, and no payment shall be made from the State Treasury, or be in any way authorized, to any person, except to an acting officer or employee elected or appointed in pursuance of law.

SEC. 11. No bill shall be passed giving any extra compensation to any public officer, servant, employe, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim against the Commonwealth without previous authority of law.

SEC. 12. All stationery, printing paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the General Assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor, Auditor General and State Treasurer.

SEC. 13. No law shall extend the term of any public officer, or increase or diminish his salary or emoluments, after his election or appointment.

SEC. 14. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other bills.

SEC. 15. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the Commonwealth, interest on the public debt and for public schools; all other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 16. No money shall be paid out of the treasury, except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

SEC. 17. No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.

SEC. 18. No appropriations, except for pensions or gratuities for military services, shall be made for charitable, educational or benevolent purposes, to any person or community, nor to any denominational or sectarian institution, corporation or association.

SEC. 19. The General Assembly may make appropriations of money to institutions wherein the widows of soldiers are supported or assisted, or the orphans of soldiers are maintained and educated; but such appropriation shall be applied exclusively to the support of such widows and orphans.

SEC. 20. The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.

SEC. 21. No act of the General Assembly shall limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and, in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes different from those fixed by general laws regulating actions against natural persons, and such acts now existing are voided.

SEC. 22. No act of the General Assembly shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, in the bonds or stock of any private corporation, and such acts now existing are avoided, saving investments heretofore made.

SEC. 23. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law.

SEC. 24. No obligation or liability of any railroad or other corporation, held or owned by the Commonwealth, shall ever be exchanged, transferred, remitted, postponed or in any way diminished by the

General Assembly, nor shall such liability or obligation be released, except by payment thereof into the State Treasury.

Sec. 25. When the General Assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session.

Sec. 26. Every order, resolution or vote, to which the concurrence of both Houses may be necessary, except on the question of adjournment, shall be presented to the Governor, and before it shall take effect be approved by him, or being disapproved, shall be repassed by two-thirds of both Houses, according to the rules and limitations prescribed in case of a bill.

Sec. 27. No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture or commodity, but any county or municipality may appoint such officers when authorized by law.

Sec. 28. No law changing the location of the capital of the State shall be valid untill the same shall have been submitted to the qualified electors of the Commonwealth at a general election, and ratified and approved by them.

Sec. 29. A member of the General Assembly who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, or from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money or other advantage, matter or thing aforesaid for another, as the consideration of his vote or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter or thing, to another, shall be held guilty of bribery within the meaning of this Constitution, and shall incur the disabilities provided thereby for said offense, and such additional punishment as is or shall be provided by law.

Sec. 30. Any person who shall, directly or indirectly, offer, give or promise, any money, or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer, or member of the General Assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law.

Sec. 31. The offense of corrupt solicitation of members of the General Assembly or of public officers of the State or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action, shall be defined by law, and shall be punished by fine and imprisonment.

Sec. 32. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or practices of solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except

for perjury in giving such testimony, and any person convicted of either of the offense aforesaid shall, as part of the punishment therefor, be disqualified from holding any office or position of honor, trust or profit in this Commonwealth.

SEC. 33. A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly shall disclose the fact to the House of which he is a member, and shall not vote thereon.

ARTICLE IV

THE EXECUTIVE

SECTION 1. The Executive Department of this Commonwealth shall consist of a Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, Secretary of Internal Affairs and a Superintendent of Public Instruction.

SEC. 2. The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed; he shall be chosen on the day of the general election, by the qualified electors of the Commonwealth, at the places where they shall vote for Representatives. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the President of the Senate, who shall open and publish them in the presence of the members of both Houses of the General Assembly. The person having the highest number of votes shall be Governor, but if two or more be equal and highest in votes, one of them shall be chosen Governor by the joint vote of the members of both Houses. Contested elections shall be determined by a committee, to be selected from both Houses of the General Assembly, and formed and regulated in such manner as shall be directed by law.

SEC. 3. The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election, and shall not be eligible to the office for the next succeeding term.

SEC. 4. A Lieutenant Governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the Governor; he shall be President of the Senate, but shall have no vote unless they be equally divided.

SEC. 5. No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States, who shall have attained the age of thirty years, and have been seven years next preceding his election an inhabitant of the State, unless he shall have been absent on the public business of the United States or of this State.

SEC. 6. No member of Congress or person holding any office under the United States or this State shall exercise the office of Governor or Lieutenant Governor.

SEC. 7. The Governor shall be commander-in-chief of the army and navy of the Commonwealth, and of the militia, except when they shall be called into the actual service of the United States.

SEC. 8. He shall nominate and, by and with the advice and consent of two-thirds of all the members of the Senate, appoint a Secretary

of the Commonwealth and an Attorney General during pleasure, a Superintendent of Public Instruction for four years, and such other officers of the Commonwealth as he is or may be authorized by the Constitution or any law to appoint; he shall have power to fill all vacancies that may happen, in offices to which he may appoint, during the recess of the Senate, by granting commissions which shall expire at the end of their next session; he shall have power to fill any vacancy that may happen, during the recess of the Senate, in the office of Auditor General, State Treasurer, Secretary of Internal Affairs or Superintendent of Public Instruction, in a judicial office, or in any other elective office which he is or may be authorized to fill; if the vacancy shall happen during the session of the Senate, the Governor shall nominate to the Senate, before their final adjournment, a proper person to fill said vacancy; but in any such case of vacancy, in an elective office, a person shall be chosen to said office at the next general election, unless the vacancy shall happen within three calendar months immediately preceding such election, in which case the election for said office shall be held at the second succeeding general election. In acting on Executive nominations the Senate shall sit with open doors, and, in confirming or rejecting the nominations of the Governor, the vote shall be taken by yeas and nays, and shall be tendered on the journal.

Sec. 9. He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon shall be granted, nor sentence commuted, except upon the recommendation in writing of the Lieutenant Governor, Secretary of the Commonwealth, Attorney General and Secretary of Internal Affairs, or any three of them, after full hearing, upon due public notice and in open sessions, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the Secretary of the Commonwealth.

Sec. 10. He may require information in writing from the officers of the Executive Department, upon any subject relating to the duties of their respective offices.

Sec. 11. He shall, from time to time, give to the General Assembly information of the state of the Commonwealth, and recommend to their consideration such measures as he may judge expedient.

Sec. 12. He may, on extraordinary occasions, convene the General Assembly, and in case of disagreement between the two Houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months. He shall have power to convene the Senate in extraordinary session by proclamation for the transaction of executive business.

Sec. 13. In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the Governor, the powers, duties and emoluments of the office, for the remainder of the term, or until the disability be removed, shall devolve upon the Lieutenant Governor.

Sec. 14. In case of a vacancy in the office of Lieutenant Governor, or when the Lieutenant Governor shall be impeached by the House of Representatives, or shall be unable to exercise the duties of his office, the powers, duties and emoluments thereof for the remainder

of the term, or until the disability be removed, shall devolve upon the President pro tempore of the Senate; and the President pro tempore of the Senate shall in like manner become Governor if a vacancy or disability shall occur in the office of Governor; his seat as Senator shall become vacant whenever he shall become Governor, and shall be filled by election as any other vacancy in the Senate.

SEC. 15. Every bill which shall have passed both Houses shall be presented to the Governor; if he approve he shall sign it, but if he shall not approve he shall return it with his objections to the House in which it shall have originated, which House shall enter the objections at large upon their journal, and proceed to re-consider it. If, after such re-consideration, two-thirds of all the members elected to that House shall agree to pass the bill, it shall be sent with the objections to the other House by which likewise it shall be re-considered, and if approved by two-thirds of all the members elected to that House it shall be a law; but in such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each House respectively. If any bill shall not be returned by the Governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return, in which case it shall be a law, unless he shall file the same with his objections, in the office of the Secretary of the Commonwealth, and give notice thereof by public proclamation within thirty days after such adjournment.

SEC. 16. The Governor shall have power to disapprove of any item or items of any bill, making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless re-passed according to the rules and limitations prescribed for the passage of other bills over the Executive veto.

SEC. 17. The Chief Justice of the Supreme Court shall preside upon trial of any contested election of Governor or Lieutenant Governor and shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial. The Governor and Lieutenant Governor shall exercise the duties of their respective offices until their successors shall be duly qualified.

SEC. 18. The Secretary of the Commonwealth shall keep a record of all official acts and proceedings of the Governor, and when required lay the same, with all papers, minutes and vouchers relating thereto, before either branch of the General Assembly, and perform such other duties as may be enjoined upon him by law.

SEC. 19. The Secretary of Internal Affairs shall exercise all the powers and perform all the duties of the Surveyor General, subject to such changes as shall be made by law. His department shall embrace a bureau of industrial statistics, and he shall discharge such duties relating to corporations, to the charitable institutions, the agricultural, manufacturing, mining, mineral, timber and other material or business interests of the State as may be prescribed by law. He shall annually, and at such other times as may be required by law, make report to the General Assembly.

SEC. 20. The Superintendent of Public Instruction shall exercise all the powers and perform all the duties of the Superintendent of Common Schools, subject to such changes as shall be made by law.

SEC. 21. The term of the Secretary of Internal Affairs shall be four years; of the Auditor General three years; and of the State Treasurer two years. These officers shall be chosen by the qualified electors of the State at general elections. No person elected to the office of Auditor General or State Treasurer shall be capable of holding the same office for two consecutive terms.

SEC. 22. The present Great Seal of Pennsylvania shall be the seal of the State. All commissions shall be in the name and by authority of the Commonwealth of Pennsylvania, and be sealed with the State seal and signed by the Governor.

ARTICLE V

THE JUDICIARY

SECTION 1. The judicial power of this Commonwealth shall be vested in a Supreme Court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the General Assembly may from time to time establish.

SEC. 2. The Supreme Court shall consist of seven judges, who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The judges whose commission shall first expire shall be chief justice, and thereafter each judge whose commission shall first expire shall in turn be chief justice.

SEC. 3. The jurisdiction of the Supreme Court shall extend over the State, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail delivery in the several counties; they shall have original jurisdiction in cases of injunction where a corporation is a party defendant, of habeas corpus, of mandamus to courts of inferior jurisdiction, and of quo warranto as to all officers of the Commonwealth whose jurisdiction extends over the State, but shall not exercise any other original jurisdiction; they shall have appellate jurisdiction by appeal, certiorari or writ of error in all cases, as is now or may hereafter be provided by law.

SEC. 4. Until otherwise directed by law, the courts of common pleas shall continue as at present established, except as herein changed; not more than four counties shall, at any time, be included in one judicial district organized for said courts.

SEC. 5. Whenever a county shall contain forty thousand inhabitants it shall constitute a separate judicial district, and shall elect one judge learned in the law: and the General Assembly shall provide for additional judges, as the business of the said districts may require. Counties containing a population less than is sufficient to constitute separate districts shall be formed into convenient single districts, or if necessary, may be attached to contiguous districts as the General Assembly may provide. The office of associate judge, not learned in

the law, is abolished in counties forming separate districts; but the several associate judges in office when this Constitution shall be adopted shall serve for their unexpired terms.

Sec. 6. In the counties of Philadelphia and Allegheny all the jurisdiction and powers now vested in the district courts and courts of common pleas, subject to such changes as may be made by this Constitution or by law, shall be in Philadelphia vested in four, and in Allegheny in two, distinct and separate courts of equal and co-ordinate jurisdiction, composed of three judges each; the said courts in Philadelphia shall be designated respectively as the court of common pleas number one, number two, number three and number four, and in Allegheny as the court of common pleas number one and number two, but the number of said courts may be by law increased, from time to time, and shall be in like manner designated by successive numbers; the number of judges in any of said courts, or in any county where the establishment of an additional court may be authorized by law, may be increased from time to time, and whenever such increase shall amount in the whole to three, such three judges shall compose a distinct and separate court as aforesaid, which shall be numbered as aforesaid. In Philadelphia all suits shall be instituted in the said courts of common pleas without designating the number of said court, and the several courts shall distribute and apportion the business among them in such manner as shall be provided by rules of court, and each court, to which any suit shall be thus assigned, shall have exclusive jurisdiction thereof, subject to change of venue, as shall be provided by law. In Allegheny each court shall have exclusive jurisdiction of all proceedings at law and in equity, commenced therein, subject to change of venue as may be provided by law.

Sec. 7. For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts to be appointed by the judges of said courts, and to hold office for three years, subject to removal by a majority of the said judges; the said prothonotary shall appoint such assistants as may be necessary and authorized by said courts; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the Commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment docket which shall contain the judgments and liens of all the said courts, as is or may be directed by law.

Sec. 8. The said courts in the counties of Philadelphia and Allegheny, respectively, shall, from time to time, in turn detail one or more of their judges to hold the courts of oyer and terminer and the courts of quarter sessions of the peace of said counties, in such manner as may be directed by law.

Sec. 9. Judges of the courts of common pleas learned in the law shall be judges of the courts of oyer and terminer, quarter sessions of the peace and general jail delivery, and of the orphans' court, and within their respective districts shall be justices of the peace as to criminal matters.

Sec. 10. The judges of the courts of common pleas, within their respective counties, shall have power to issue writs of certiorari

to justices of the peace and other inferior courts not of record, and to cause their proceedings to be brought before them, and right and justice to be done.

SEC. 11. Except as otherwise provided in this Constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs and townships at the time of the election of constables by the qualified electors thereof, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of five years. No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.

SEC. 12. In Philadelphia there shall be established, for each thirty thousand inhabitants, one court, not of record, of police and civil causes, with jurisdiction not exceeding one hundred dollars; such courts shall be held by magistrates whose term of office shall be five years, and they shall be elected on general ticket by the qualified voters at large; and in the election of the said magistrates no voter shall vote for more than two-thirds of the number of persons to be elected when more than one are to be chosen; they shall be compensated only by fixed salaries, to be paid by said county; and shall exercise such jurisdiction, civil and criminal, except as herein provided, as is now exercised by aldermen, subject to such changes, not involving an increase of civil jurisdiction or conferring political duties, as may be made by law. In Philadelphia the office of alderman is abolished.

SEC. 13. All fees, fines and penalties in said courts shall be paid into the county treasury.

SEC. 14. In all cases of summary conviction in this Commonwealth, or of judgment in suit for a penalty before a magistrate, or court not of record, either party may appeal to such court of record as may be prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown.

SEC. 15. All judges required to be learned in the law, except the judges of the Supreme Court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them on the address of two-thirds of each House of the General Assembly.

SEC. 16. Whenever two judges of the Supreme Court are to be chosen for the same term of service each voter shall vote for one only, and when three are to be chosen he shall vote for no more than two; candidates highest in vote shall be declared elected.

SEC. 17. Should any two or more judges of the Supreme Court, or any two or more judges of the court of common pleas for the same district, be elected at the same time, they shall, as soon after the election as convenient, cast lots for priority of commission, and certify

the result to the Governor, who shall issue their commissions in accordance therewith.

SEC. 18. The judges of the Supreme Court and the judges of the several courts of common pleas, and all other judges required to be learned in the law, shall at stated times receive for their services an adequate compensation, which shall be fixed by law, and paid by the State. They shall receive no other compensation, fees or perquisites of office for their services from any source, nor hold any other office of profit under the United States, this State or any other State.

SEC. 19. The judges of the Supreme Court, during their continuance in office, shall reside within this Commonwealth; and the other judges, during their continuance in office, shall reside within the districts for which they shall be respectively elected.

SEC. 20. The several courts of common pleas, besides the powers herein conferred, shall have and exercise within their respective districts, subject to such changes as may be made by law, such chancery powers as are now vested by law in the several courts of common pleas of this Commonwealth, or as may hereafter be conferred upon them by law.

SEC. 21. No duties shall be imposed by law upon the Supreme Court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided. The court of nisi prius is hereby abolished, and no court of original jurisdiction to be presided over by any one or more of the judges of the Supreme Court shall be established.

SEC. 22. In every county wherein the population shall exceed one hundred and fifty thousand, the General Assembly shall, and in any other county may, establish a separate orphans' court, to consist of one or more judges who shall be learned in the law, which court shall exercise all the jurisdiction and powers now vested in or which may hereafter be conferred upon the orphans' courts, and thereupon the jurisdiction of the judges of the court of common pleas within such county, in orphans' court proceedings, shall cease and determine. In any county in which a separate orphans' court shall be established, the register of wills shall be clerk of such court and subject to its directions, in all matters pertaining to his office; he may appoint assistant clerks, but only with the consent and approval of said court. All accounts filed with him as register or as clerk of the said separate orphans' court shall be audited by the court without expense to parties, except where all parties in interest in a pending proceeding shall nominate an auditor whom the court may, in its discretion, appoint. In every county orphans' courts shall possess all the powers and jurisdiction of a registers' court, and separate registers' courts are hereby abolished.

SEC. 23. The style of all process shall be "The Commonwealth of Pennsylvania." All prosecutions shall be carried on in the name and by the authority of the Commonwealth of Pennsylvania, and conclude "against the peace and dignity of the same."

SEC. 24. In all cases of felonious homicide, and in such other criminal cases as may be provided for by law, the accused after conviction and sentence, may remove the indictment, record and all proceedings to the Supreme Court for review.

Sec. 25. Any vacancy happening by death, resignation or otherwise, in any court of record, shall be filled by appointment by the Governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy.

Sec. 26. All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction and powers of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process and judgments of such courts, shall be uniform; and the General Assembly is hereby prohibited from creating other courts to exercise the powers vested by this Constitution in the judges of the courts of common pleas and orphans' courts.

Sec. 27. The parties, by agreement filed, may in any civil case dispense with trial by jury, and submit the decision of such case to the court having jurisdiction thereof, and such court shall hear and determine the same; and the judgment thereon shall be subject to writ of error as in other cases.

Article VI

IMPEACHMENT AND REMOVAL FROM OFFICE

Section 1. The House of Representatives shall have the sole power of impeachment.

Sec. 2. All impeachments shall be tried by the Senate; when sitting for that purpose the Senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present.

Sec. 3. The Governor and all other civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this Commonwealth; the person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Sec. 4. All officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record and the Superintendent of Public Instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except Governor, Lieutenant Governor, members of the General Assembly and judges of the courts of record learned in the law, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate.

Article VII

OATH OF OFFICE

Section 1. Senators and Representatives and all judicial State and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do

solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing, to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this Commonwealth, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law."

The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of State officers and judges of the Supreme Court, shall be filed in the office of the Secretary of the Commonwealth, and in the case of other judicial and county officers, in the office of the prothonotary of the county in which the same is taken; any person refusing to take said oath or affirmation shall forfeit his office; and any person who shall be convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqaulified from holding any office of trust or profit within this Commonwealth. The oath to the members of the Senate and House of Representatives shall be administered by one of the judges of the Supreme Court or of a court of common pleas learned in the law, in the hall of the House to which the members shall be elected.

Article VIII

SUFFRAGE AN ELECTIONS

[a] Section 1. Every male citizen of twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject however to such laws requiring and regulating the registration of electors as the General Assembly may enact:

1. He shall have been a citizen of the United States at least one month.

2. He shall have resided in the State one year (or, having previously been a qualified elector or native born citizen of the State, he shall have removed therefrom and returned, then six months,) immediately preceding the election.

3. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

4. If twenty-two years of age and upwards, he shall have paid within two years a State or county tax, which shall have been assessed at least two months and paid at least one month before the election.

Sec. 2. The general election shall be held annually on the Tuesday next following the first Monday of November, but the General Assembly may by law fix a different day, two-thirds of all the members of each House consenting thereto.

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[a] As amended November 5, 1901. For original section see page —.

SEC. 3. All elections for city, ward, borough and township officers, for regular terms of service, shall be held on the third Tuesday of February.

[a] SEC. 4. All elections by the citizens shall be by ballot or by such other method as may be prescribed by law: Provided, That secrecy in voting be preserved.

SEC. 5. Electors shall in all cases except treason, felony and breach of surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

SEC. 6. Whenever any of the qualified electors of this Commonwealth shall be in actual military service, under a requisition from the President of the United States, or by the authority of this Commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual places of election.

[a] SEC. 7. All laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout the State, but laws regulating and requiring the registration of electors may be enacted to apply to cities only, provided that such laws be uniform for cities of the same class.

SEC. 8. Any person, who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such elector's vote or for the withholding thereof, and any elector who shall receive or agree to receive, for himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

SEC. 9. Any person who shall, while a candidate for office, be guilty of bribery, fraud, or wilful violation of any election law, shall be forever disqualified from holding an office of trust or profit in this Commonwealth: and any person convicted of wilful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years.

SEC. 10. In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding except for perjury in giving such testimony.

SEC. 11. Townships and wards of cities or boroughs, shall form or be divided into election districts of compact and contiguous territory, in such manner as the court of quarter sessions of the city or county in which the same are located may direct; but districts in cities of over one hundred thousand inhabitants shall be divided by the courts of quarter sessions, having jurisdiction therein, whenever at the next preceding election more than two hundred and fifty votes shall have

[a] As amended November 5, 1901. For original section see page —.

been polled therein; and other election districts whenever the court of the proper county shall be of opinion that the convenience of the electors and the public interests will be promoted thereby.

SEC. 12. All elections by person in a representative capacity shall be viva voce.

SEC. 13. For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poor house or other asylum at public expense, nor while confined in public prison.

SEC. 14. District election boards shall consist of a judge and two inspectors, who shall be chosen annually by the citizens. Each elector shall have the right to vote for the judge and one inspector, and each inspector shall appoint one clerk. The first election board for any new district shall be selected, and vacancies in election boards filled, as shall be provided by law. Election officers shall be privileged from arrest upon days of election, and while engaged in making up and transmitting returns, except upon warrant of a court of record or judge thereof, for an election fraud, for felony, or for wanton breach of the peace. In cities they may claim exemption from jury duty during their terms of service.

SEC. 15. No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held any office, appointment or employment in or under the government of the United States, or of this State, or of any city, or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen, notaries public and persons in the militia service of the State; nor shall any election officer be eligible to any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county offices, as shall be designated by general law.

SEC. 16. The courts of common pleas of the several counties of the Commonwealth shall have power, within their respective jurisdictions, to appoint overseers of election to supervise the proceedings of election officers and to make report to the court as may be required; such appointments to be made for any district in a city or county upon petition of five citizens, lawful voters of such election district, setting forth that such appointment is a reasonable precaution to secure the purity and fairness of elections; overseers shall be two in number for an election district, shall be residents therein, and shall be persons qualified to serve upon election boards, and in each case members of different political parties; whenever the members of an election board shall differ in opinion the overseers, if they shall be agreed thereon, shall decide the question of difference; in appointing overseers of election all the law judges of the proper court, able to act at the time, shall concur in the appointments made.

SEC. 17. The trial and determination of contested elections of electors of President and Vice President, members of the General Assembly, and of all public officers, whether State, judicial, municipal

or local, shall be by the courts of law, or by one or more of the law judges thereof; the General Assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction, or regulating its exercise, shall apply to any contest arising out of an election held before its passage.

Article IX

Taxation and finance

Section 1. All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity.

Sec. 2. All laws exempting property from taxation, other than the property above enumerated, shall be void.

Sec. 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

Sec. 4. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million of dollars.

Sec. 5. All laws authorizing the borrowing of money by and on behalf of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for the purpose specified and no other.

Sec. 6. The credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation or association, nor shall the Commonwealth become a joint owner or stockholder in any company, association or corporation.

Sec. 7. The General Assembly shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual.

Sec. 8. The debt of any county, city, borough, township, school district or other municipality or incorporated district, except as herein provided, shall never exceed seven per centum upon the assessed value of the taxable property therein, nor shall any such municipality or district incur any new debt, or increase its indebtedness to an amount exceeding two per centum upon such assessed valuation of property, without the assent of the electors thereof at a public election in such manner as shall be provided by law; but any city, the debt of which now exceeds seven per centum of such assessed

valuation, may be authorized by law to increase the same three per centum, in the aggregate at any one time, upon such valuation.

Sec. 9. The Commonwealth shall not assume the debt, or any part thereof, of any city, county, borough or township, unless such debt shall have been contracted to enable the State to repel invasion, suppress domestic insurrection, defend itself in time of war, or to assist the State in the discharge of any portion of its present indebtedness.

Sec. 10. Any county, township, school district or other municipality incurring any indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years.

Sec. 11. To provide for the payment of the present State debt, and any additional debt contracted as aforesaid, the General Assembly shall continue and maintain the sinking fund, sufficient to pay the accruing interest on such debt, and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking fund shall consist of the proceeds of the sales of the public works or any part thereof, and of the income or proceeds of the sale of any stocks owned by the Commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the State not required for the ordinary and current expenses of government; and unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt.

Sec. 12. The moneys of the State, over and above the necessary reserve, shall be used in the payment of the debt of the State, either directly or through the sinking fund, and the moneys of the sinking fund shall never be invested in or loaned upon the security of anything, except the bonds of the United States or of this State.

Sec. 13. The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured.

Sec. 14. The making profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the State, or member or officer of the General Assembly, shall be a misdemeanor and shall be punished as may be provided by law, but part of such punishment shall be disqualification to hold office for a period of not less than five years.

Article X

EDUCATION

Section 1. The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth above the age of six years may be educated, and shall appropriate at least one million dollars each year for that purpose.

Sec. 2. No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school.

SEC. 3. Women twenty-one years of age and upwards, shall be eligible to any office of control or management under the school laws of this State.

ARTICLE XI

MILITIA

SECTION 1. The freemen of this Commonwealth shall be armed, organized and disciplined for its defense when and in such manner as may be directed by law. The General Assembly shall provide for maintaining the militia by appropriations from the Treasury of the Commonwealth, and may exempt from military service persons having conscientious scruples against bearing arms.

ARTICLE XII

PUBLIC OFFICERS

SECTION 1. All officers whose selection is not provided for in this Constitution, shall be elected or appointed as may be directed by law.

SEC. 2. No member of Congress from this State, nor any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any office in this State to which a salary, fees or perquisities shall be attached. The General Assembly may by law declare what offices are incompatible.

SEC. 3. Any person who shall fight a duel or send a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this State, and may be otherwise punished as shall be prescribed by law.

ARTICLE XIII

NEW COUNTIES

SECTION 1. No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be formed of less area, or containing a less population; nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided.

ARTICLE XIV

COUNTY OFFICERS

SECTION 1. County officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no sheriff or treasurer shall be eligible for the term next succeeding the one for which he may be elected.

SEC. 2. County officers shall be elected at the general elections and shall hold their offices for the term of three years, beginning on the

first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for shall be filled in such manner as may be provided by law.

Sec. 3. No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Sec. 4. Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.

Sec. 5. The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

Sec. 6. The General Assembly shall provide by law for the strict accountability of all county, township and borough officers, as well for the fees which may be collected by them as for all public or municipal moneys which may be paid to them.

Sec. 7. Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand eight hundred and seventy-five and every third year thereafter; and in the election of said officers, each qualified elector shall vote for no more than two persons, and the three person having the highest number of votes shall be elected; any casual vacancy in the office of county commissioner or county auditor shall be filled by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

Article XV

CITIES AND CITY CHARTERS

Section 1. Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general election in favor of the same.

Sec. 2. No debt shall be contracted or liability incurred by any municipal commission, except in pursuance of an appropriation previously made therefor by the municipal government.

Sec. 3. Every city shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt.

Article XVI

PRIVATE CORPORATIONS

Section 1. All existing charters, or grants of special or exclusive privileges, under which a bona fide organization shall not have taken

place and business been commenced in good faith, at the time of the adoption of this Constitution shall thereafter have no validity.

Sec. 2. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any other general or special law for the benefit of such corporation except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

Sec. 3. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well being of the State.

Sec. 4. In all elections for directors or managers of a corporation each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

Sec. 5. No foreign corporation shall do any business in this State without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

Sec. 6. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

Sec. 7. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

Sec. 8. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The General Assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall on the demand of either party be determined by a jury according to the course of the common law.

Sec. 9. Every banking law shall provide for the registry and countersigning, by an officer of the State, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the Auditor General for the redemption of such notes or bills.

Sec. 10. The General Assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revokable at the adoption of this Constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of this Commonwealth, in such manner, however, that no injus-

tice shall be done to the corporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

Sec. 11. No corporate body to possess banking and discounting privileges shall be created or organized in pursuance of any law without three months' previous public notice, at the place of the intended location, of the intention to apply for such privileges, in such manner as shall be prescribed by law, nor shall a charter for such privilege be granted for a longer period than twenty years.

Sec. 12. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and the General Assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

Sec. 13. The term "corporations," as used in this article, shall be construed to include all joint-stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Article XVII

RAILROADS AND CANALS

Section 1. All railroads and canals shall be public highways, and all railroads and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad; and shall receive and transport each other's passengers, tonnage and cars loaded or empty, without delay or discrimination.

Sec. 2. Every railroad and canal corporation, organized in this State shall maintain an office therein where transfers of its stock shall be made, and where its books shall be kept for inspection by any stockholder or creditor of such corporation, in which shall be recorded the amount of capital stock subscribed or paid in, and by whom, the names of the owners of its stock and the amounts owned by them, respectively, the transfers of said stock, and the names and places of residence of its officers.

Sec. 3. All individuals, associations and corporations shall have an equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges, for, or in facilities for, transportation of freight or passengers within the State or coming from or going to any other State. Persons and property transported over any rail road shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates.

SEC. 4. No railroad, canal or other corporation, or the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property or franchises of such corporation with, or lease, or purchase the works or franchises of, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad or canal corporation act as an officer of any other railroad or canal corporation owning or having the control of a parallel or competing line; and the question whether railroads or canals are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in other civil issues.

SEC. 5. No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works; nor shall such company, directly or indirectly, engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry the products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length.

SEC. 6. No president, director, officer, agent or employe of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

SEC. 7. No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise, and no railroad or canal company, or any lessee, manager or employe thereof, shall make any preferences in furnishing cars or motive power.

SEC. 8. No railroad, railway or other transportation company shall grant free passes, or passes at a discount, to any person except officers or employes of the company.

SEC. 9. No street passenger railway shall be constructed within the limits of any city, borough or township, without the consent of its local authorities.

SEC. 10. No railroad, canal or other transportation company, in existence at the time of the adoption of this article, shall have the benefit of any future legislation by general or special laws, except on condition of complete acceptance of all the provisions of this article.

SEC. 11. The existing powers and duties of the Auditor General in regard to railroads, canals and other transportation companies, except as to their accounts, are hereby transferred to the Secretary of Internal Affairs, who shall have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and, in addition to the annual reports now required to be made, said Secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof.

SEC. 12. The General Assembly shall enforce by appropriate legislation the provisions of this article.

Article XVIII

FUTURE AMENDMENTS

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; and, if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the General Assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid; and such proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time at least three months after being so agreed to by two Houses, as the General Assembly shall prescribe; and, if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the Constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted they shall be voted upon separately.

Schedule

That no inconvenience may arise from the changes in the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared, that:

Section 1. This Constitution shall take effect on the first day of January, in the year one thousand eight hundred and seventy-four, for all purposes not otherwise provided for therein.

Sec. 2. All laws in force in this Commonwealth at the time of the adoption of this Constitution not inconsistent therewith, and all rights, actions, prosecutions and contracts shall continue as if this Constitution had not been adopted.

Sec. 3. At the general election in the years one thousand eight hundred and seventy-four and one thousand eight hundred seventy-five, Senators shall be elected in all districts where there shall be vacancies. Those elected in the year one thousand eight hundred and seventy-four shall serve for two years, and those elected in the year one thousand eight hundred and seventy-five shall serve for one year. Senators now elected and those whose terms are unexpired shall represent the district in which they reside until the end of the terms for which they were elected.

Sec. 4. At the general election in the year one thousand eight hundred and seventy-six, Senators shall be elected from even numbered districts to serve for two years, and from odd numbered districts to serve for four years.

Sec. 5. The first election of Governor under this Constitution shall be at the general election in the year one thousand eight hundred and seventy-five, when a Governor shall be elected for three years;

and the term of the Governor elected in the year one thousand eight hundred and seventy-eight and of those thereafter elected shall be for four years, according to the provisions of this Constitution.

SEC. 6. At the general election in the year one thousand eight hundred and seventy-four, a Lieutenant Governor shall be elected according to the provisions of this Constitution.

SEC. 7. The Secretary of Internal Affairs shall be elected at the first general election after the adoption of this Constitution; and when the said officer shall be duly elected and qualified, the office of Surveyor General shall be abolished. The Surveyor General in office at the time of the adoption of this Constitution shall continue in office until the expiration of the term for which he was elected.

SEC. 8. When the Superintendent of Public Instruction shall be duly qualified the office of Superintendent of Common Schools shall cease.

SEC. 9. Nothing contained in this Constitution shall be construed to render any person now holding any State office for a first official term ineligible for re-election at the end of such term.

SEC. 10. The judges of the Supreme Court in office when this Constitution shall take effect shall continue until their commissions severally expire. Two judges in addition to the number now composing the said court shall be elected at the first general election after the adoption of this Constitution.

SEC. 11. All courts of record and all existing courts which are not specified in this Constitution shall continue in existence until the first day of December, in the year one thousand eight hundred and seventy-five, without abridgment of their present jurisdiction, but no longer. The court of first criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin is hereby abolished, and all causes and proceedings pending therein in the county of Schuylkill shall be tried and disposed of in the courts of oyer and terminer and quarter sessions of the peace of said county.

SEC. 12. The register's courts now in existence shall be abolished on the first day of January next, succeeding the adoption of this Constitution.

SEC. 13. The General Assembly shall, at the next session after the adoption of this Constitution, designate the several judicial districts as required by this Constitution. The judges in commission when such designation shall be made shall continue during their unexpired terms judges of the new districts in which they reside; but, when there shall be two judges residing in the same district, the president judge shall elect to which district he shall be assigned, and the additional law judge shall be assigned to the other district.

SEC. 14. The General Assembly shall, at the next succeeding session after each decennial census and not oftener, designate the several judicial districts as required by this Constitution.

SEC. 15. Judges learned in the law of any court of record holding commissions in force at the adoption of this Constitution shall hold their respective offices until the expiration of the terms for which they were commissioned, and until their successors shall be duly qualified. The Governor shall commission the president judge of the court of first criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin as a judge of the court of common pleas of Schuylkill county, for the unexpired term of his office.

SEC. 16. After the expiration of the term of any president judge of any court of common pleas, in commission at the adoption of this Constitution, the judge of such court learned in the law and oldest in commission shall be the president judge thereof; and when two or more judges are elected at the same time in any judicial district they shall decide by lot which shall be president judge; but when a president judge of a court shall be re-elected he shall continue to be president judge of that court. Associate judges not learned in the law, elected after the adoption of this Constitution, shall be commissioned to hold their offices for the term of five years from the first day of January next after their election.

SEC. 17. The General Assembly, at the first session after the adoption of this Constitution, shall fix and determine the compensation of the judges of the Supreme Court and of the judges of the several judicial districts of the Commonwealth; and the provisions of the fifteenth section of the article on legislation shall not be deemed inconsistent herewith. Nothing contained in this Constitution shall be held to reduce the compensation now paid to any law judge of this Commonwealth now in commission.

SEC. 18. The courts of common pleas in the counties of Philadelphia and Allegheny shall be composed of the present judges of the district court and court of common pleas of said counties until their offices shall severally end, and of such other judges as may from time to time be selected. For the purpose of first organization in Philadelphia the judges of the court number one shall be Judge Allison, Pierce and Paxson; of the court number two, Judges Hare, Mitchell and one other judge to be elected; of the court number three, Judges Ludlow, Finletter and Lynd; and of the court number four, Judges Thayer, Briggs and one other judge to be elected. The judge first named shall be the president judge of said courts respectively, and thereafter the president judge shall be the judge oldest in commission; but any president judge re-elected in the same court or district, shall continue to be president judge thereof. The additional judges for courts numbers two and four shall be voted for and elected at the first general election after the adoption of this Constitution, in the same manner as the two additional judges of the Supreme Court, and they shall decide by lot to which court they shall belong. Their term of office shall commence on the first Monday of January, in the year one thousand eight hundred and seventy-five.

SEC. 19. In the county of Allegheny, for the purpose of first organization under this Constitution, the judges of the court of common pleas, at the time of the adoption of this Constitution, shall be the judges of the court number one, and the judges of the district court, at the same date, shall be the judges of the common pleas number two. The president judges of the common pleas and district court shall be president judge of said courts numbers one and two respectively, until their offices shall end; and thereafter the judge oldest in commission shall be president judge; but any president judge re-elected in the same court or district, shall continue to be president judge thereof.

SEC. 20. The organization of the courts of common pleas under this Constitution for the counties of Philadelphia and Allegheny shall

take effect on the first Monday of January, one thousand eight hundred and seventy-five, and existing courts in said counties shall continue with their present powers and jurisdiction until that date, but no new suits shall be instituted in the courts of nisi prius after the adoption of this Constitution.

SEC. 21. The causes and proceedings pending in the court of nisi prius, court of common pleas, and district court in Philadelphia shall be tried and disposed of in the court of common pleas. The records and dockets of said courts shall be transferred to the prothonotary's office of said county.

SEC. 22. The causes and proceedings pending in the court of common pleas in the county of Allegheny shall be tried and disposed of in the court number one; and the causes and proceedings pending in the district court shall be tried and disposed of in the court number two.

SEC. 23. The prothonotary of the court of common pleas of Philadelphia shall be first appointed by the judges of said court on the first Monday of December in the year one thousand eight hundred and seventy-five, and the present prothonotary of the district court in said county shall be the prothonotary of the said court of common pleas until said date when his commission shall expire, and the present clerk of the court of oyer and terminer and quarter sessions of the peace in Philadelphia shall be the clerk of such court until the expiration of his present commission on the first Monday of December, in the year one thousand eight hundred and seventy-five.

SEC. 24. In cities containing over fifty thousand inhabitants except Philadelphia, all aldermen in office at the time of the adoption of this Constitution shall continue in office until the expiration of their commissions, and at the election for city and ward officers in the year one thousand eight hundred and seventy-five one alderman shall be elected in each ward as provided in this Constitution.

SEC. 25. In Philadelphia magistrates in lieu of aldermen shall be chosen as required in this Constitution, at the election in said city for city and ward officers in the year one thousand eight hundred and seventy-five; their term of office shall commence on the first Monday of April succeeding their election. The terms of office of aldermen in said city holding or entitled to commissions at the time of the adoption of this Constitution shall not be affected thereby.

SEC. 26. All persons in office in this Commonwealth at the time of the adoption of this Constitution, and at the first election under it, shall hold their respective offices until the term for which they have been elected or appointed shall expire, and until their successors shall be duly qualified, unless otherwise provided in this Constitution.

SEC. 27. The seventh article of this Constitution prescribing an oath of office shall take effect on and after the first day of January, one thousand eight hundred and seventy-five.

SEC. 28. The terms of office of county commissioners and county auditors, chosen prior to the year one thousand eight hundred and seventy-five, which shall not have expired before the first Monday of January, in the year one thousand eight hundred and seventy-six, shall expire on that day.

SEC. 29. All State, county, city, ward, borough and township officers in office at the time of the adoption of this Constitution, whose

compensation is not provided for by salaries alone, shall continue to receive the compensation allowed them by law until the expiration of their respective terms of office.

Sec. 30. All State and judicial officers heretofore elected, sworn, or affirmed, or in office when this Constitution shall take effect, shall severally within one month after such adoption, take and subscribe an oath, or affirmation, to support this Constitution.

Sec. 31. The General Assembly at its first sesion, or as soon as may be after the adoption of this Constitution, shall pass such laws as may be necessary to carry the same into full force and effect.

Sec. 32. The ordinance passed by this Convention entitled "An ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof," shall be held to be valid for all the purposes thereof.

Sec. 33. The words "county commissioners," whenever used in this Constitution and in any ordinance accompanying the same, shall be held to include the commissioners for the city of Philadelphia."

Sections 1, 4 and 7 of Article VIII, as Originally Adopted

Section 1. Every male citizen twenty-one years of age possessing the folowing qualifications, shall be entitled to vote at all elections:

First. He shall have been a citizen of the United States at least one month.

Second. He shall have resided in the State one year, (or if, having previously been a qualified elector or native born citizen of the State, he shall have removed therefrom and returned, then six months), immediately preceding the election.

Third. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

Fourth. If twenty-two years of age or upwards, he shall have paid within two years a State or county tax, which shall have been assessed at least two months and paid at least one month before the election.

* * * * * * *

Sec. 4. All elections by the citizens shall be by ballot. Every ballot shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the elector who presents the ballot. Any elector may write his name upon his ticket or cause the same to be written thereon and attested by a citizen of the district. The election officers shall be sworn or affirmed not to disclose how any elector shall have voted unless required to do so as witnesses in a judicial proceeding.

* * * * * * *

Sec. 7. All laws regulating the holding of elections by the citizens, or for the registration of electors, shall be uniform throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered.

THE PHILIPPINE ISLANDS

TREATY WITH SPAIN—1898

TREATY OF PEACE BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SPAIN

Signed at Paris, December 10, 1898. Ratification advised by the Senate, February 6, 1899. Ratified by the President, February 6, 1899. Ratified by Her Majesty the Queen Regent of Spain, March 19, 1899. Ratifications exchanged at Washington, April 11, 1899. Proclaimed, Washington, April 11, 1899.

The United States of America and Her Majesty the Queen Regent of Spain, in the Name of Her August Son Don Alfonso XIII, desiring to end the state of war now existing between the two countries, have for that purpose appointed as Plenipotentiaries:

The President of the United States,

William R. Day, Cushman K. Davis, William P. Frye, George Gray, and Whitelaw Reid, citizens of the United States;

and Her Majesty the Queen Regent of Spain,

Don Eugenio Montero Ríos, President of the Senate,

Don Buenaventura de Abarzuza, Senator of the Kingdom and ex-Minister of the Crown,

Don José de Garnica, Deputy to the Cortes and Associate Justice of the Supreme Court;

Don Wenceslao Ramirez de Villa-Urrutia, Envoy Extraordinary and Minister Plenipotentiary at Brussels, and

Don Rafael Cerero, General of Division;

Who, having assembled in Paris, and having exchanged their full powers, which were found to be in due and proper form, have, after discussion of the matters before them, agreed upon the following articles:

Article I

Spain relinquishes all claim of sovereignty over and title to Cuba.

And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property.

Article II

Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

ARTICLE III

Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following line:

A line running from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachi, from the one hundred and eighteenth (118th) to the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty five minutes (4° 45′) north latitude, thence along the parallel of four degrees and forty five minutes (4° 45′) north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119° 35′) east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119° 35′) east of Greenwich to the parallel of latitude seven degrees and forty minutes (7° 40′) north, thence along the parallel of latitude seven degrees and forty minutes (7° 40′) north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude east of Greenwich, thence by a direct line to the intersection of the tenth (10th) degree parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

The United States will pay to Spain the sum of twenty million dollars ($20,000,000) within three months after the exchange of the ratifications of the present treaty.

ARTICLE IV

The United States will, for the term of ten years from the date of the exchange of the ratifications of the present treaty, admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

ARTICLE V

The United States will, upon the signature of the present treaty, send back to Spain, at its own cost, the Spanish soldiers taken as prisoners of war on the capture of Manila by the American forces. The arms of the soldiers in question shall be restored to them.

Spain will, upon the exchange of the ratifications of the present treaty, proceed to evacuate the Philippines, as well as the island of Guam, on terms similar to those agreed upon by the Commissioners appointed to arrange for the evacuation of Porto Rico and other islands in the West Indies, under the Protocol of August 12, 1898, which is to continue in force till its provisions are completely executed.

The time within which the evacuation of the Philippine Islands and Guam shall be completed shall be fixed by the two Governments. Stands of colors, uncaptured war vessels, small arms, guns of all calibres, with their carriages and accessories, powder, ammunition,

livestock, and materials and supplies of all kinds, belonging to the land and naval forces of Spain in the Philippines and Guam, remain the property of Spain. Pieces of heavy ordnance, exclusive of field artillery, in the fortifications and coast defences, shall remain in their emplacements for the term of six months, to be reckoned from the exchange of ratifications of the treaty; and the United States may, in the mean time, purchase such material from Spain, if a satisfactory agreement between the two Governments on the subject shall be reached.

ARTICLE VI

Spain will, upon the signature of the present treaty, release all prisoners of war, and all persons detained or imprisoned for political offences, in connection with the insurrections in Cuba and the Philippines and the war with the United States.

Reciprocally, the United States will release all persons made prisoners of war by the American forces, and will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines.

The Government of the United States will at its own cost return to Spain and the Government of Spain will at its own cost return to the United States, Cuba, Porto-Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them, respectively, under this article.

ARTICLE VII

The United States and Spain mutually relinquish all claims for indemnity, national and individual of every kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war.

The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

ARTICLE VIII

In conformity with the provisions of Articles I, II, and III of this treaty, Spain relinquishes in Cuba, and cedes in Porto Rico and other islands in the West Indies, in the island of Guam, and in the Philippine Archipelago, all the buildings, wharves, barracks, forts, structures, public highways and other immovable property which, in conformity with law, belong to the public domain, and as such belong to the Crown of Spain.

And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, cannot in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be.

The aforesaid relinquishment or cession, as the case may be, includes all documents exclusively referring to the sovereignty relinquished or ceded that may exist in the archives of the Peninsula. Where any document in such archives only in part relates to said sovereignty, a copy of such part will be furnished whenever it shall be requested. Like rules shall be reciprocally observed in favor of Spain in respect of documents in the archives of the islands above referred to.

In the aforesaid relinquishment or cession, as the case may be, are also included such rights as the Crown of Spain and its authorities possess in respect of the official archives and records, executive as well as judicial, in the islands above referred to, which relate to said islands or the rights and property of their inhabitants. Such archives and records shall be carefully preserved, and private persons shall without distinction have the right to require, in accordance with law, authenticated copies of the contracts, wills and other instruments forming part of notarial protocols or files, or which may be contained in the executive or judicial archives, be the latter in Spain or in the islands aforesaid.

Article IX

Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom, retaining in either event all their rights of property, including the right to sell or dispose of such property or of its proceeds; and they shall also have the right to carry on their industry, commerce and professions, being subject in respect thereof to such laws as are applicable to other foreigners. In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

Article X

The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

Article XI

The Spaniards residing in the territories over which Spain by this treaty cedes or relinquishes her sovereignty shall be subject in matters civil as well as criminal to the jurisdiction of the courts of the country wherein they reside, pursuant to the ordinary laws governing the same; and they shall have the right to appear before such courts, and to pursue the same course as citizens of the country to which the courts belong.

Article XII

Judicial proceedings pending at the time of the exchange of ratifications of this treaty in the territories over which Spain relinquishes or cedes her sovereignty shall be determined according to the following rules:

1. Judgments rendered either in civil suits between private individuals, or in criminal matters, before the date mentioned, and with respect to which there is no recourse or right of review under the Spanish law, shall be deemed to be final, and shall be executed in due form by competent authority in the territory within which such judgments should be carried out.

2. Civil suits between private individuals which may on the date mentioned be undetermined shall be prosecuted to judgment before the court in which they may then be pending or in the court that may be substituted therefor.

3. Criminal actions pending on the date mentioned before the Supreme Court of Spain against citizens of the territory which by this treaty ceases to be Spanish shall continue under its jurisdiction until final judgment; but, such judgment having been rendered, the execution thereof shall be committed to the competent authority of the place in which the case arose.

Article XIII

The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba, and in Porto Rico, the Philippines and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of the ratifications of this treaty.

Article XIV

Spain shall have the power to establish consular officers in the ports and places of the territories, the sovereignty over which has been either relinquished or ceded by the present treaty.

Article XV

The Government of each country will, for the term of ten years, accord to the merchant vessels of the other country the same treatment in respect of all port charges, including entrance and clearance dues, light dues, and tonnage duties, as it accords to its own merchant vessels, not engaged in the coastwise trade.

This article may at any time be terminated on six months' notice given by either Government to the other.

Article XVI

It is understood that any obligations assumed in this treaty by the United States with respect to Cuba are limited to the time of its

occupancy thereof; but it will upon the termination of such occupancy, advise any Government established in the island to assume the same obligations.

ARTICLE XVII

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Paris, the tenth day of December, in the year of Our Lord one thousand eight hundred and ninety-eight.

[SEAL]	WILLIAM R. DAY	[SEAL]	EUGENIO MONTERO RÍOS
[SEAL]	CUSHMAN K. DAVIS	[SEAL]	B. DE ABARZUZA
[SEAL]	WM P FRYE	[SEAL]	J. DE GARNICA
[SEAL]	GEO. GRAY	[SEAL]	W R DE VILLA URRUTIA
[SEAL]	WHITELAW REID.	[SEAL]	RAFAEL CERERO

THE PHILIPPINE COMMISSION—1900 [a]

THE PRESIDENT'S INSTRUCTIONS TO THE COMMISSION

WAR DEPARTMENT,
Washington, April 7, 1900.

SIR: I transmit to you herewith the instructions of the President for the guidance of yourself and your associates as commissioners to the Philippine Islands.

Very respectfully,

ELIHU ROOT,
Secretary of War.

Hon. WILLIAM H. TAFT,
President Board of Commissioners to the Philippine Islands.

EXECUTIVE MANSION, *April 7, 1900.*

SIR: In the message transmitted to the Congress on the 5th of December, 1899, I said, speaking of the Philippine Islands: "As long as the insurrection continues the military arm must necessarily be supreme. But there is no reason why steps should not be taken from time to time to inaugurate governments essentially popular in their form as fast as territory is held and controlled by our troops. To this end I am considering the advisability of the return of the commission, or such of the members thereof as can be secured, to aid the existing authorities and facilitate this work throughout the islands."

To give effect to the intention thus expressed, I have appointed Hon. William H. Taft, of Ohio, Prof. Dean C. Worcester, of Michigan, Hon. Luke E. Wright, of Tennessee, Hon. Henry C. Ide, of Vermont, and Prof. Bernard Moses, of California, commissioners to

[a] See House Documents, Vol. II (No. 2), Fifty-seventh Congress, first session, p. 11.

the Philippine Islands, to continue and perfect the work of organizing and establishing civil government already commenced by the military authorities, subject in all respects to any laws which Congress may hereafter enact.

The commissioners named will meet and act as a board, and the Hon. William H. Taft is designated as president of the board. It is probable that the transfer of authority from military commanders to civil officers will be gradual and will occupy a considerable period. Its successful accomplishment and the maintenance of peace and order in the meantime will require the most perfect cooperation between the civil and military authorities in the islands, and both should be directed during the transition period by the same executive department. The commission will therefore report to the Secretary of War, and all their actions will be subject to your approval and control.

You will instruct the commission to proceed to the city of Manila, where they will make their principal office, and to communicate with the military governor of the Philippine Islands, whom you will at the same time direct to render to them every assistance within his power in the performance of their duties. Without hampering them by too specific instructions, they should in general be enjoined, after making themselves familiar with the conditions and needs of the country, to devote their attention in the first instance to the establishment of municipal governments in which the natives of the islands, both in the cities and in the rural communities, shall be afforded the opportunity to manage their own local affairs to the fullest extent of which they are capable, and subject to the least degree of supervision and control which a careful study of their capacities and observation of the workings of native control show to be consistent with the maintenance of law, order, and loyalty. The next subject in order of importance should be the organization of government in the larger administrative divisions, corresponding to counties, departments, or provinces, in which the common interests of many or several municipalities falling within the same tribal lines, or the same natural geographical limits, may best be subserved by a common administration. Whenever the commission is of the opinion that the condition of affairs in the islands is such that the central administration may safely be transferred from military to civil control, they will report that conclusion to you, with their recommendations as to the form of central government to be established for the purpose of taking over the control.

Beginning with the 1st day of September, 1900, the authority to exercise, subject to my approval, through the Secretary of War, that part of the power of government in the Philippine Islands which is of a legislative nature is to be transferred from the military governor of the islands to this commission, to be thereafter exercised by them in the place and stead of the military governor, under such rules and regulations as you shall prescribe, until the establishment of the civil central government for the islands contemplated in the last foregoing paragraph, or until Congress shall otherwise provide. Exercise of this legislative authority will include the making of rules and orders, having the effect of law, for the raising of revenue by taxes, customs duties, and imposts; the appropriation and expenditure of public funds of the islands; the establishment of an educational system

throughout the islands; the establishment of a system to secure an efficient civil service; the organization and establishment of courts; the organization and establishment of municipal and departmental governments, and all other matters of a civil nature for which the military governor is now competent to provide by rules or orders of a legislative character.

The commission will also have power, during the same period, to appoint to office such officers under the judicial, educational, and civil-service systems, and in the municipal and departmental governments, as shall be provided for. Until the complete transfer of control the military governor will remain the chief executive head of the government of the islands, and will exercise the executive authority now possessed by him and not herein expressly assigned to the commission, subject, however, to the rules and orders enacted by the commission in the exercise of the legislative powers conferred upon them. In the meantime the municipal and departmental governments will continue to report the military governor, and be subject to his administrative supervision and control, under your direction, but that supervision and control will be confined within the narrowest limits consistent with the requirements that the powers of government in the municipalities and departments shall be honestly and effectively exercised and that law and order and individual freedom shall be maintained.

All legislative rules and orders, establishments of government, and appointments to office by the commission will take effect immediately, or at such times as they shall designate, subject to your approval and action upon the coming in of the commission's reports, which are to be made from time to time as their action is taken. Wherever civil governments are constituted under the direction of the commission, such military posts, garrisons, and forces will be continued for the suppression of insurrection and brigandage and the maintenance of law and order as the military commander shall deem requisite, and the military forces shall be at all times subject under his orders to the call of the civil authorities for the maintenance of law and order and the enforcement of their authority. In the establishment of municipal governments the commission will take as the basis of their work the governments established by the military governor under his order of August 8, 1899, and under the report of the board constituted by the military governor by his order of January 29, 1900, to formulate and report a plan of municipal government, of which his honor Cayetano Arellano, president of the audiencia, was chairman, and they will give to the conclusions of that board the weight and consideration which the high character and distinguished abilities of its members justify. In the constitution of department or provincial governments they will give especial attention to the existing government of the island of Negros, constituted with the approval of the people of that island, under the order of the military governor of July 22, 1899, and after verifying, so far as may be practicable, the reports of the successful working of that government, they will be guided by the experience thus acquired, so far as it may be applicable to the conditions existing in other portions of the Philippines. They will avail themselves, to the fullest degree practicable, of the conclusions reached by the previous commission to the Philippines.

In the distribution of powers among the governments organized by the commission, the presumption is always to be in favor of the smaller subdivision, so that all the powers which can properly be exercised by the municipal government shall be vested in that government, and all the powers of a more general character which can be exercised by the departmental government shall be vested in that government, and so that in the governmental system which is the result of the process the central government of the islands, following the example of the distribution of the powers between the States and the National Government of the United States, shall have no direct administration except of matters of purely general concern, and shall have only such supervision and control over local governments as may be necessary to secure and enforce faithful and efficient administration by local officers.

The many different degrees of civilization and varieties of custom and capacity among the people of the different islands preclude very definite instruction as to the part which the people shall take in the selection of their own officers, but these general rules are to be observed: That in all cases the municipal officers who administer the local affairs of the people are to be selected by the people, and that wherever officers of more extended jurisdiction are to be selected in any way natives of the islands are to be preferred, and if they can be found competent and willing to perform the duties they are to receive the offices in preference to any others. It will be necessary to fill some offices for the present with Americans, which, after a time, may well be filled by natives of the islands. As soon as practicable a system for ascertaining the merit and fitness of candidates for civil offices should be put in force. An indispensable qualification for all offices and positions of trust and authority in the islands must be absolute and unconditional loyalty to the United States, and absolute and unhampered authority and power to remove and punish any officer deviating from that standard must at all times be retained in the hands of the central authority of the islands.

In all the forms of government and administrative provisions which they are authorized to prescribe, the commission should bear in mind that the government which they are establishing is designed not for our satisfaction or for the expression of our theoretical views, but for the happiness, peace and prosperity of the people of the Philippine Islands, and the measures adopted should be made to conform to their customs, their habits, and even their prejudices, to the fullest extent consistent with the accomplishment of the indispensable requisites of just and effective government. At the same time the commission should bear in mind, and the people of the islands should be made plainly to understand, that there are certain great principles of government which have been made the basis of our governmental system, which we deem essential to the rule of law and the maintenance of individual freedom, and of which they have, unfortunately, been denied the experience possessed by us; that there are also certain practical rules of government which we have found to be essential to the preservation of these great principles of liberty and law, and that these principles and these rules of government must be established and maintained in their islands for the sake of their liberty and happiness, however much they may conflict with the customs or

laws of procedure with which they are familiar. It is evident that the most enlightened thought of the Philippine Islands fully appreciates the importance of these principles and rules, and they will inevitably within a short time command universal assent. Upon every division and branch of the government of the Philippines, therefore, must be imposed these inviolable rules:

That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense; that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense or be compelled in any criminal case to be a witness against himself; that the right to be secure against unreasonable searches and seizures shall not be violated; that neither slavery nor involuntary servitude shall exist except as a punishment for crime; that no bill of attainder or expost facto law shall be passed; that no law shall be passed abridging the freedom of speech or of the press or of the rights of the people to peaceably assemble and petition the government for a redress of grievances; that no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed.

It will be the duty of the commission to make a thorough investigation into the titles of the large tracts of land held or claimed by individuals, or by religious orders; into the justice of the claims and complaints made against such landholders by the people of the island, or any part of the people, and to seek by wise and peaceable measures a just settlement of the controversies and redress of the wrongs which have caused strife and bloodshed in the past. In the performance of this duty the commission is enjoined to see that no injustice is done; to have regard for substantial right and equity, disregarding technicalities so far as substantial right permits, and to observe the following rules: That the provision of the treaty of Paris pledging the United States to the protection of all rights of property in the islands, and as well the principle of our own Government which prohibits the taking of private property without due process of law, shall not be violated; that the welfare of the people of the islands, which should be a paramount consideration, shall be attained consistently with this rule of property right; that if it becomes necessary for the public interest of the people of the island to dispose of claims to property which the commission finds to be not lawfully acquired and held, disposition shall be made thereof by due legal procedure, in which there shall be full opportunity for fair and impartial hearing and judgment; that if the same public interests require the extinguishment of property rights lawfully acquired and held, due compensation shall be made out of the public treasury therefor; that no form of religion and no minister of religion shall be forced upon any community or upon any citizen of the island; that, upon the other hand, no minister

of religion shall be interfered with or molested in following his calling, and that the separation between state and church shall be real, entire, and absolute.

It will be the duty of the commission to promote and extend and, as they find occasion, to improve the system of education already inaugurated by the military authorities. In doing this they should regard as of first importance the extension of a system of primary education which shall be free to all, and which shall tend to fit the people for the duties of citizenship and for the ordinary avocations of a civilized community. This instruction should be given, in the first instance, in every part of the islands in the language of the people. In view of the great number of languages spoken by the different tribes, it is especially important to the prosperity of the islands that a common medium of communication may be established, and it is obviously desirable that this medium should be the English language. Especial attention should at once be given to affording full opportunity to all the people of the islands to acquire the use of the English language.

It may well be that the main changes which should be made in the system of taxation and in the body of the laws under which the people are governed, except such changes as have already been made by the military government, should be relegated to the civil government which is to be established under the auspices of the commission. It will, however, be the duty of the commission to inquire diligently as to whether there are any further changes which ought not to be delayed, and, if so, they are authorized to make such changes, subject to your approval. In doing so they are to bear in mind that taxes which tend to penalize or repress industry and enterprise are to be avoided; that provisions for taxation should be simple, so that they may be understood by the people; that they should affect the fewest practicable subjects of taxation which will serve for the general distribution of the burden. The main body of the laws which regulate the rights and obligations of the people should be maintained with as little interference as possible. Changes made should be mainly in procedure and in the criminal laws to secure speedy and impartial trials, and at the same time effective administration and respect for individual rights.

In dealing with the uncivilized tribes of the island, the commission should adopt the same course followed by Congress in permitting the tribes of our North American Indians to maintain their tribal organization and government, and under which many of those tribes are now living in peace and contentment, surrounded by a civilization to which they are unable or unwilling to conform. Such tribal governments should, however, be subjected to wise and firm regulation; and, without undue or petty interference, constant and active effort should be exercised to prevent barbarous practices and introduce civilized customs.

Upon all officers and employees of the United States, both civil and military, should be impressed a sense of the duty to observe not merely the material but the personal and social rights of the people of the islands, and to treat them with the same courtesy and respect for their personal dignity which the people of the United States are accustomed to require from each other.

The articles of capitulation of the city of Manila on the 13th of August, 1898, concluded with these words:

"This city, its inhabitants, its churches and religious worship, its educational establishments, and its private property of all descriptions are placed under the special safeguard of the faith and honor of the American Army."

I believe that this pledge has been faithfully kept. As high and sacred an obligation rests upon the Government of the United States to give protection for property and life, civil and religious freedom, and wise, firm, and unselfish guidance in the paths of peace and prosperity to all the people of the Philippine Islands. I charge this commission to labor for the full performance of this obligation, which concerns the honor and conscience of their country, in the firm hope that through their labors all the inhabitants of the Philippine Islands may come to look back with gratitude to the day when God gave victory to American arms at Manila and set their land under the sovereignty and protection of the people of the United States.

WILLIAM MCKINLEY.

The SECRETARY OF WAR,
Washington, D. C.

ACT GIVING STATUTORY AUTHORITY FOR THE EXERCISE OF GOVERNMENTAL POWERS IN THE PHILIPPINES—1901 [a]

[FIFTY-SIXTH CONGRESS, SECOND SESSION]

The act of March 2, 1901 "making appropriation for the support of the Army for the fiscal year ending June thirtieth, nineteen hundred and two" contained the following paragraphs:

All military, civil, and judicial powers necessary to govern the Philippine Islands, acquired from Spain by the treaties concluded at Paris on the tenth day of December, eighteen hundred and ninety-eight, and at Washington on the seventh day of November, nineteen hundred, shall, until otherwise provided by Congress, be vested in such person and persons and shall be exercised in such manner as the President of the United States shall direct, for the establishment of civil government and for maintaining and protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion: *Provided*, That all franchises granted under the authority hereof shall contain a reservation of the right to alter, amend, or repeal the same.

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[a] For other acts of an organic nature relating to the Philippines see the act to confirm the tariff laws established by the Philippine Commission, and to define evidence necessary to convict of treason in the Philippines, March 8, 1902; to promote the efficiency of the constabulary, January 30, 1903; to fix a standard of value and a coinage system, March 2, 1903; to limit trade between United States and the Philippines after July 1, 1906, to American vessels, April 15, 1904; to authorize the issue of insular and municipal bonds, to extend immigration laws to, to change title of civil governor to governor-general, and to provide for locating and sale of mineral lands, February 6, 1905; to extend extradition laws to, February 6, 1905; to revise and amend the Philippine tariff laws, March 3, 1905.

Until a permanent government shall have been established in said archipelago full reports shall be made to Congress on or before the first day of each regular session of all legislative acts and proceedings of the temporary government instituted under the provisions hereof; and full reports of the acts and doings of said government, and as to the condition of the archipelago and of its people, shall be made to the President, including all information which may be useful to the Congress in providing for a more permanent government: *Provided*, That no sale or lease or other disposition of the public lands or the timber thereon or the mining rights therein shall be made: *And provided further*, That no franchise shall be granted which is not approved by the President of the United States, and is not in his judgment clearly necessary for the immediate government of the islands and indispensable for the interest of the people thereof, and which can not, without great public mischief, be postponed until the establishment of permanent civil government; and all such franchises shall terminate one year after the establishment of such permanent civil government.

All laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

Approved, March 2, 1901.

EXTENSION OF POWERS OF THE PHILIPPINE COMMISSION—1901 [a]

WAR DEPARTMENT, *Washington, June 21, 1901.*

On and after the fourth day of July, 1901, until it shall be otherwise ordered, the President of the Philippine Commission will exercise the executive authority in all civil affairs in the government of the Philippine Islands heretofore exercised in such affairs by the Military Governor of the Philippines, and to that end the Hon. William H. Taft, President of the said Commission, is hereby appointed Civil Governor of the Philippine Islands. Such executive authority will be exercised under, and in conformity to, the instructions to the Philippine Commissioners, dated April 7, 1900, and subject to the approval and control of the Secretary of War of the United States. The municipal and provincial civil governments, which have been, or shall hereafter be, established in said islands, and all persons performing duties appertaining to the offices of civil government in said islands, will, in respect of such duties, report to the said Civil Governor.

The power to appoint civil officers, heretofore vested in the Philippine Commission, or in the Military Governor, will be exercised by the Civil Governor with the advice and consent of the Commission.

The Military Governor of the Philippines is hereby relieved from the performance, on and after the said 4th day of July, of the civil duties hereinbefore described, but his authority will continue to be exercised as heretofore, in those districts in which insurrection against the authority of the United States continues to exist, or in

[a] See House Documents, Vol. 11 (No. 2), Fifty-seventh Congress, first session, pp. 4–10.

which public order is not sufficiently restored to enable provincial civil governments to be established under the instructions to the Commission dated April 7, 1900.

By the President:

ELIHU ROOT,
Secretary of War.

ACT TO PROVIDE FOR CIVIL GOVERNMENT OF PHILIPPINES—1902

[FIFTY-SEVENTH CONGRESS, FIRST SESSION]

An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the action of the President of the United States in creating the Philippine Commission and authorizing said Commission to exercise the powers of government to the extent and in the manner and form and subject to the regulation and control set forth in the instructions of the President to the Philippine Commission, dated April seventh, nineteen hundred, and in creating the offices of civil governor and vice-governor of the Philippine Islands, and authorizing said civil governor and vice-governor to exercise the powers of government to the extent and in the manner and form set forth in the Executive order dated June twenty-first, nineteen hundred and one, and in establishing four executive departments of government in said Islands as set forth in the Act of the Philippine Commission, entitled "An Act providing an organization for the departments of the interior, of commerce and police, of finance and justice, and of public instruction," enacted September sixth, nineteen hundred and one, is hereby approved, ratified, and confirmed, and until otherwise provided by law the said Islands shall continue to be governed as thereby and herein provided, and all laws passed hereafter by the Philippine Commission shall have an enacting clause as follows: "By authority of the United States be it enacted by the Philippine Commission." The provisions of section eighteen hundred and ninety-one of the Revised Statutes of eighteen hundred and seventy-eight shall not apply to the Philippine Islands.

Future appointments of civil governor, vice-governor, members of said Commission and heads of executive departments shall be made by the President, by and with the advice and consent of the Senate.

SEC. 2. That the action of the President of the United States heretofore taken by virtue of the authority vested in him as Commander in Chief of the Army and Navy, as set forth in his order of July twelfth, eighteen hundred and ninety-eight, whereby a tariff of duties and taxes as set forth by said order was to be levied and collected at all ports and places in the Philippine Islands upon passing into the occupation and possession of the forces of the United States, together with the subsequent amendments of said order, are hereby approved, ratified, and confirmed, and the actions of the authorities of the government of the Philippine Islands, taken in accordance with the provisions of said order and subsequent amendments, are

hereby approved: *Provided*, That nothing contained in this section shall be held to amend or repeal an Act entitled "An Act temporarily to provide revenue for the Philippine Islands, and for other purposes," approved March eighth, nineteen hundred and two.

SEC. 3. That the President of the United States, during such time as and whenever the sovereignty and authority of the United States encounter armed resistance in the Philippine Islands, until otherwise provided by Congress, shall continue to regulate and control commercial intercourse with and within said Islands by such general rules and regulations as he, in his discretion, may deem most conducive to the public interests and the general welfare.

SEC. 4. That all inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December tenth, eighteen hundred and ninety-eight.

SEC. 5. That no law shall be enacted in said islands which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws.

That in all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to compel the attendance of witnesses in his behalf.

That no person shall be held to answer for a criminal offense without due process of law; and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself.

That all persons shall before conviction be bailable by sufficient sureties, except for capital offenses.

That no law impairing the obligation of contracts shall be enacted.

That no person shall be imprisoned for debt.

That the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion, insurrection, or invasion the public safety may require it, in either of which events the same may be suspended by the President, or by the governor, with the approval of the Philippine Commission, wherever during such period the necessity for such suspension shall exist.

That no ex post facto law or bill of attainder shall be enacted.

That no law granting a title of nobility shall be enacted, and no person holding any office of profit or trust in said islands, shall, without the consent of the Congress of the United States, accept any present, emolument, office, or title of any kind whatever from any king, queen, prince, or foreign State.

That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

That the right to be secure against unreasonable searches and seizures shall not be violated.

That neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in said islands.

That no law shall be passed abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

That no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.

That no money shall be paid out of the treasury except in pursuance of an appropriation by law.

That the rule of taxation in said islands shall be uniform.

That no private or local bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill.

That no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

That all money collected on any tax levied or assessed for a special purpose shall be treated as a special fund in the treasury and paid out for such purpose only.

SEC. 6. That whenever the existing insurrection in the Philippine Islands shall have ceased and a condition of general and complete peace shall have been established therein and the fact shall be certified to the President by the Philippine Commission, the President, upon being satisfied thereof, shall order a census of the Philippine Islands to be taken by said Philippine Commission; such census in its inquiries relating to the population shall take and make so far as practicable full report for all the inhabitants, of name, age, sex, race, or tribe, whether native or foreign born, literacy in Spanish, native dialect or language, or in English, school attendance, ownership of homes, industrial and social statistics, and such other information separately for each island, each province, and municipality, or other civil division, as the President and said Commission may deem necessary: *Provided*, That the President may, upon the request of said Commission, in his discretion, employ the service of the Census Bureau in compiling and promulgating the statistical information above provided for, and may commit to such Bureau any part or portion of such labor as to him may seem wise.

SEC. 7. That two years after the completion and publication of the census, in case such condition of general and complete peace with recognition of the authority of the United States shall have continued in the territory of said Islands not inhabited by Moros or other non-Christian tribes and such facts shall have been certified to the President by the Philippine Commission, the President upon being satisfied thereof shall direct said Commission to call, and the Commission shall call, a general election for the choice of delegates to a popular assembly of the people of said territory in the Philippine Islands, which shall be known as the Philippine assembly. After said assembly shall have convened and organized, all the legislative power heretofore conferred on the Philippine Commission in all that part of said Islands not inhabited by Moros or other non-Christian tribes

shall be vested in a legislature consisting of two houses—The Philippine Commission and the Philippine assembly. Said assembly shall consist of not less than fifty nor more than one hundred members to be apportioned by said Commission among the provinces as nearly as practicable according to population: *Provided*, That no province shall have less than one member: *And provided further*, That provinces entitled by population to more than one member may be divided into such convenient districts as the said Commission may deem best.

Public notice of such division shall be given at least ninety days prior to such election, and the election shall be held under rules and regulations to be prescribed by law. The qualification of electors in such election shall be the same as is now provided by law in case of electors in municipal elections. The members of assembly shall hold office for two years from the first day of January next following their election, and their successors shall be chosen by the people every second year thereafter. No person shall be eligible to such election who is not a qualified elector of the election district in which he may be chosen, owing allegiance to the United States, and twenty-five years of age.

The legislature shall hold annual sessions, commencing on the first Monday of February in each year and continuing not exceeding ninety days thereafter (Sundays and holidays not included): *Provided*, That the first meeting of the legislature shall be held upon the call of the governor within ninety days after the first election: *And provided further*, That if at the termination of any session the appropriations necessary for the support of government shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid.

The legislature may be called in special session at any time by the civil governor for general legislation, or for action on such specific subjects as he may designate. No special session shall continue longer than thirty days, exclusive of Sundays.

The assembly shall be the judge of the elections, returns, and qualifications of its members. A majority shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent members. It shall choose its speaker and other officers, and the salaries of its members and officers shall be fixed by law. It may determine the rule of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member. It shall keep a journal of its proceedings, which shall be published, and the yeas and nays of the members on any question shall, on the demand of one-fifth of those present, be entered on the journal.

SEC. 8. That at the same time with the first meeting of the Philippine legislature, and biennially thereafter, there shall be chosen by said legislature, each house voting separately, two resident commissioners to the United States, who shall be entitled to an official recognition as such by all departments upon presentation to the President of a certificate of election by the civil governor of said islands, and each of whom shall be entitled to a salary payable monthly by the

United States at the rate of five thousand dollars per annum, and two thousand dollars additional to cover all expenses: *Provided*, That no person shall be eligible to such election who is not a qualified elector of said islands, owing allegiance to the United States, and who is not thirty years of age.

SEC. 9. That the Supreme Court and the courts of first instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided and such additional jurisdiction as shall hereafter be prescribed by the government of said Islands, subject to the power of said Government to change the practice and method of procedure. The municipal courts of said Islands shall possess and exercise jurisdiction as heretofore provided by the Philippine Commission, subject in all matters to such alteration and amendment as may be hereafter enacted by law; and the chief justice and associate justices of the supreme court shall hereafter be appointed by the President, by and with the advice and consent of the Senate, and shall receive the compensation heretofore prescribed by the Commission until otherwise provided by Congress. The judges of the court of first instance shall be appointed by the civil governor, by and with the advice and consent of the Philippine Commission: *Provided*, That the admiralty jurisdiction of the supreme court and courts of first instance shall not be changed except by Act of Congress.

SEC. 10. That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgments and decrees of the supreme court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in causes in which the value in controversy exceeds twenty-five thousand dollars, or in which the title or possession of real estate exceeding in value the sum of twenty-five thousand dollars, to be ascertained by the oath of either party or of other competent witnesses, is involved or brought in question; and such final judgments or decrees may and can be reviewed, revised, reversed, modified, or affirmed by said Supreme Court of the United States on appeal or writ of error by the party aggrieved, in the same manner, under the same regulations, and by the same procedure, as far as applicable, as the final judgments and decrees of the circuit courts of the United States.

SEC. 11. That the government of the Philippine Islands is hereby authorized to provide for the needs of commerce by improving the harbors and navigable waters of said islands and to construct and maintain in said navigable waters and upon the shore adjacent thereto bonded warehouses, wharves, piers, light-houses, signal and life-saving stations, buoys, and like instruments of commerce, and to adopt and enforce regulations in regard thereto, including bonded warehouses wherein articles not intended to be imported into said islands nor mingled with the property therein, but brought into a port of said islands for reshipment to another country, may be deposited in bond and reshipped to another country without the payment of customs duties or charges.

SEC. 12. That all the property and rights which may have been acquired in the Philippine Islands by the United States under the

treaty of peace with Spain, signed December tenth, eighteen hundred and ninety-eight, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the government of said islands to be administered for the benefit of the inhabitants thereof, except as provided in this Act.

SEC. 13. That the government of the Philippine Islands, subject to the provisions of this Act and except as herein provided, shall classify according to its agricultural character and productiveness, and shall immediately make rules and regulations for the lease, sale, or other disposition of the public lands other than timber or mineral lands, but such rules and regulations shall not go into effect or have the force of law until they have received the approval of the President and when approved by the President they shall be submitted by him to Congress at the beginning of the next ensuing session thereof and unless disapproved or amended by Congress at said session they shall at the close of such period have the force and effect of law in the Philippine Islands: *Provided*, That a single homestead entry shall not exceed sixteen hectares in extent.

SEC. 14. That the government of the Philippine Islands is hereby authorized and empowered to enact rules and regulations and to prescribe terms and conditions to enable persons to perfect their title to public lands in said Islands, who, prior to the transfer of sovereignty from Spain to the United States, had fulfilled all or some of the conditions required by the Spanish laws and royal decrees of the Kingdom of Spain for the acquisition of legal title thereto yet failed to secure conveyance of title: and the Philippine Commission is authorized to issue patents, without compensation, to any native of said Islands, conveying title to any tract of land not more than sixteen hectares in extent, which were public lands and had been actually occupied by such native or his ancestors prior to and on the thirteenth of August, eighteen hundred and ninety-eight.

SEC. 15. That the government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe, by general legislation, to provide for the granting or sale and conveyance to actual occupants and settlers and other citizens of said islands such parts and portions of the public domain, other than timber and mineral lands, of the United States in said islands as it may deem wise, not exceeding sixteen hectares to any one person and for the sale and conveyance of not more than one thousand and twenty-four hectares to any corporation or association of persons: *Provided*, That the grant or sale of such lands, whether the purchase price be paid at once or in partial payments, shall be conditioned upon actual and continued occupancy, improvement, and cultivation of the premises sold for a period of not less than five years, during which time the purchaser or grantee can not alienate or encumber said land or the title thereto; but such restriction shall not apply to transfers of rights and title of inheritance under the laws for the distribution of the estates of decedents.

SEC. 16. That in granting or selling any part of the public domain under the provisions of the last preceding section, preference in all cases shall be given to actual occupants and settlers; and such public

lands of the United States in the actual possession or occupancy of any native of the Philippine Islands shall not be sold by said government to any other person without the consent thereto of said prior occupant or settler first had and obtained: *Provided*, That the prior right hereby secured to an occupant of land, who can show no other proof of title than possession, shall not apply to more than sixteen hectares in any one tract.

SEC. 17. That timber, trees, forests, and forest products on lands leased or demised by the government of the Philippine Islands under the provisions of this Act shall not be cut, destroyed, removed, or appropriated except by special permission of said government and under such regulations as it may prescribe.

All moneys obtained from lease or sale of any portion of the public domain or from licenses to cut timber by the government of the Philippine Islands shall be covered into the insular treasury and be subject only to appropriation for insular purposes according to law.

SEC. 18. That the forest laws and regulations now in force in the Philippine Islands, with such modifications and amendments as may be made by the government of said islands, are hereby continued in force, and no timber lands forming part of the public domain shall be sold, leased, or entered until the government of said islands, upon the certification of the forestry bureau that said lands are more valuable for agriculture than for forest uses, shall declare such lands so certified to be agricultural in character: *Provided*, That the said government shall have the right and is hereby empowered to issue licenses to cut, harvest, or collect timber or other forest products on reserved or unreserved public lands in said islands in accordance with the forest laws and regulations hereinbefore mentioned and under the provisions of this Act, and the said government may lease land to any person or persons holding such licenses, sufficient for a mill site, not to exceed four hectares in extent, and may grant rights of way to enable such person or persons to get access to the lands to which such licenses apply.

SEC. 19. That the beneficial use shall be the basis, the measure, and the limit of all rights to water in said islands, and the government of said islands is hereby authorized to make such rules and regulations for the use of water, and to make such reservations of public lands for the protection of the water supply, and for other public purposes not in conflict with the provisions of this Act, as it may deem best for the public good.

MINERAL LANDS

SEC. 20. That in all cases public lands in the Philippine Islands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law.

SEC. 21. That all valuable mineral deposits in public lands in the Philippine Islands, both surveyed and unsurveyed, are hereby declared to be free and open to exploration, occupation, and purchase, and the land in which they are found to occupation and purchase, by citizens of the United States, or of said Islands: *Provided*, That when on any lands in said islands entered and occupied as agricultural lands under the provisions of this Act, but not patented, min-

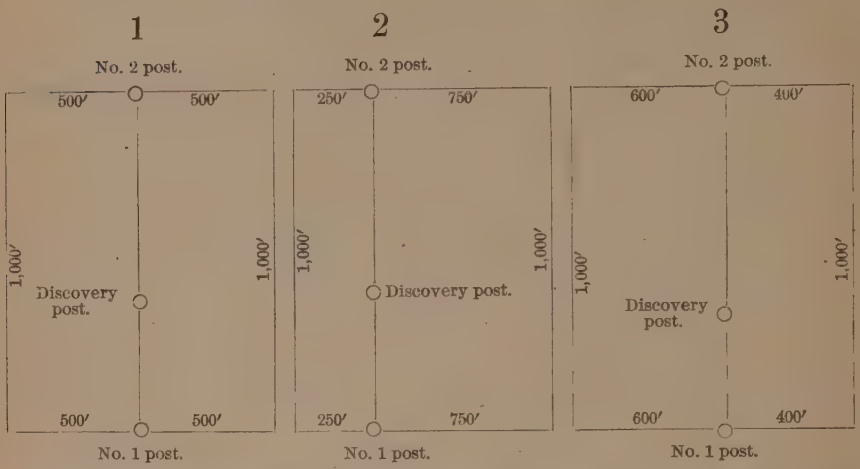
eral deposits have been found, the working of such mineral deposits is hereby forbidden until the person, association, or corporation who or which has entered and is occupying such lands shall have paid to the government of said islands such additional sum or sums as will make the total amount paid for the mineral claim or claims in which said deposits are located equal to the amount charged by the government for the same as mineral claims.

SEC. 22. That mining claims upon land containing veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, located after the passage of this Act, whether located by one or more persons qualified to locate the same under the preceding section, shall be located in the following manner and under the following conditions: Any person so qualified desiring to locate a mineral claim shall, subject to the provisions of this Act with respect to land which may be used for mining, enter upon the same and locate a plot of ground measuring, where possible, but not exceeding, one thousand feet in length by one thousand feet in breadth, in as nearly as possible a rectangular form; that is to say: All angles shall be right angles, except in cases where a boundary line of a previously surveyed claim is adopted as common to both claims, but the lines need not necessarily be meridional. In defining the size of a mineral claim, it shall be measured horizontally, irrespective of inequalities of the surface of the ground.

SEC. 23. That a mineral claim shall be marked by two posts placed as nearly as possible on the line of the ledge or vein, and the posts shall be numbered one and two, and the distance between posts numbered one and two shall not exceed one thousand feet, the line between posts numbered one and two to be known as the location line; and upon posts numbered one and two shall be written the name given to the mineral claim, the name of the locator, and the date of the location. Upon post numbered one there shall be written, in addition to the foregoing, "Initial post," the approximate compass bearing of post numbered two, and a statement of the number of feet lying to the right and to the left of the line from post numbered one to post numbered two, thus: "Initial post. Direction of post numbered two. ——— feet of this claim lie on the right and ——— feet on the left of the line from number one to number two post." All the particulars required to be put on number one and number two posts shall be furnished by the locator to the provincial secretary, or such other officer as by the Philippine government may be described as mining recorder, in writing, at the time the claim is recorded, and shall form a part of the record of such claim.

SEC. 24. That when a claim has been located the holder shall immediately mark the line between posts numbered one and two so that it can be distinctly seen. The locator shall also place a post at the point where he has found minerals in place, on which shall be written "Discovery post:" *Provided*, That when the claim is surveyed the surveyor shall be guided by the records of the claim, the sketch plan on the back of the declaration made by the owner when the claim was recorded, posts numbered one and two, and the notice on number one, the initial post.

EXAMPLES OF VARIOUS MODES OF LAYING OUT CLAIMS



SEC. 25. That it shall not be lawful to move number one post, but number two post may be moved by the deputy mineral surveyor when the distance between posts numbered one and two exceeds one thousand feet, in order to place number two post one thonsand feet from number one post on the line of location. When the distance between posts numbered one and two is less than one thousand feet the deputy mineral surveyor shall have no authority to extend the claim beyond number two.

SEC. 26. That the "location line" shall govern the direction of one side of the claim, upon which the survey shall be extended according to this Act.

SEC. 27. That the holder of a mineral claim shall be entitled to all minerals which may lie within his claim, but he shall not be entitled to mine outside the boundary lines of his claim continued vertically downward: *Provided*, That this Act shall not prejudice the rights of claim owners nor claim holders whose claims have been located under existing laws prior to this Act.

SEC. 28. That no mineral claim of the full size shall be recorded without the application being accompanied by an affidavit made by the applicant or some person on his behalf cognizant of the facts—that the legal notices and posts have been put up; that mineral has been found in place on the claim proposed to be recorded; that the ground applied for is unoccupied by any other person. In the said declaration shall be set out the name of the applicant and the date of the location of the claim. The words written on the number one and number two posts shall be set out in full, and as accurate a description as possible of the position of the claim given with reference to some natural object or permanent monuments.

SEC. 29. That no mineral claim which at the date of its record is known by the locator to be less than a full-sized mineral claim shall be recorded without the word "fraction" being added to the name of the claim, and the application being accompanied by an affidavit or solemn declaration made by the applicant or some person on his behalf cognizant of the facts: That the legal posts and notices have

been put up; that mineral has been found in place on the fractional claim proposed to be recorded; that the ground applied for is unoccupied by any other person. In the said declaration shall be set out the name of the applicant and the date of the location of the claim. The words written on the posts numbered one and two shall be set out in full, and as accurate a description as possible of the position of the claim given. A sketch plan shall be drawn by the applicant on the back of the declaration, showing as near as may be the position of the adjoining mineral claims and the shape and size, expressed in feet, of the claim or fraction desired to be recorded: *Provided*, That the failure on the part of the locator of a mineral claim to comply with any of the foregoing provisions of this section shall not be deemed to invalidate such location, if upon the facts it shall appear that such locator has actually discovered mineral in place on said location, and that there has been on his part a bona fide attempt to comply with the provisions of this Act, and that the nonobservance of the formalities hereinbefore referred to is not of a character calculated to mislead other persons desiring to locate claims in the vicinity.

SEC. 30. That in cases where, from the nature or shape of the ground, it is impossible to mark the location line of the claim as provided by this Act then the claim may be marked by placing posts as nearly as possible to the location line, and noting the distance and direction such posts may be from such location line, which distance and direction shall be set out in the record of the claim.

SEC. 31. That every person locating a mineral claim shall record the same with the provincial secretary or such other officer as by the government of the Philippine Islands may be described as mining recorder of the district within which the same is situate, within thirty days after the location thereof. Such record shall be made in a book to be kept for the purpose in the office of the said provincial secretary or such other officer as by said government described as mining recorder, in which shall be inserted the name of the claim, the name of each locator, the locality of the mine, the direction of the location line, the length in feet, the date of location, and the date of the record. A claim which shall not have been recorded within the prescribed period shall be deemed to have been abandoned.

SEC. 32. That in case of any dispute as to the location of a mineral claim the title to the claim shall be recognized according to the priority of such location, subject to any question as to the validity of the record itself and subject to the holder having complied with all the terms and conditions of this Act.

SEC. 33. That no holder shall be entitled to hold in his, its, or their own name or in the name of any other person, corporation, or association more than one mineral claim on the same vein or lode.

SEC. 34. That a holder may at any time abandon any mineral claim by giving notice, in writing, of such intention to abandon, to the provincial secretary or such other officer as by the government of the Philippine Islands may be described as mining recorder; and from the date of the record of such notice all his interest in such claim shall cease.

SEC. 35. That proof of citizenship under the clauses of this Act relating to mineral lands may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his

own knowledge or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, or of the Philippine Islands, by the filing of a certified copy of their charter or certificate of incorporation.

SEC. 36. That the United States Philippine Commission or its successors may make regulations, not in conflict with the provisions of this Act, governing the location, manner of recording, and amount of work necessary to hold possession of a mining claim, subject to the following requirements:

On each claim located after the passage of this Act, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year: *Provided*, That upon a failure to comply with these conditions the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required thereby, the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent coowner personal notice in writing, or notice by publication in the newspaper published nearest the claim, and in two newspapers published at Manila, one in the English language and the other in the Spanish language, to be designated by the chief of the Philippine insular bureau of public lands, for at least once a week for ninety days, and if, at the expiration of ninety days after such notice in writing or by publication such delinquent shall fail or refuse to contribute his proportion of the expenditure required by this section his interest in the claim shall become the property of his coowners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim.

SEC. 37. That a patent for any land claimed and located for valuable mineral deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this Act, having claimed and located a piece of land for such purposes, who has or have complied with the terms of this Act, may file in the office of the provincial secretary, or such other officer as by the government of said Islands may be described as mining recorder of the province wherein the land claimed is located, an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the chief of the Philippine insular bureau of public lands, showing accurately the boundaries of the claim, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such office, and shall thereupon be entitled to a patent for the land, in the manner following: The provincial secretary, or such other officer as by the Philippine government may be

described as mining recorder, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such an application has been made, once a week for the period of sixty days, in a newspaper to be by him designated as nearest to such claim and in two newspapers published at Manila, one in the English language and once in the Spanish language, to be designated by the chief of the Philippine insular bureau of public lands; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter within the sixty days of publication, shall file with the provincial secretary or such other officer as by the Philippine government may be described as mining recorder a certificate of the chief of the Philippine insular bureau of public lands that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the provincial secretary or such other officer as by the government of said islands may be described as mining recorder at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent upon the payment to the provincial treasurer or the collector of internal revenue of five dollars per acre and that no adverse claim exists, and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this Act: *Provided*, That where the claimant for a patent is not a resident of or within the province wherein the land containing the vein, ledge, or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent where said agent is conversant with the facts sought to be established by said affidavits.

SEC. 38. That applicants for mineral patents, if residing beyond the limits of the province or military department wherein the claim is situated, may make the oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any province of the Philippine Islands, or any other official in said islands authorized by law to administer oaths.

SEC. 39. That where an adverse claim is filed during the period of publication it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavits thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment, and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been

rendered the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment roll with the provincial secretary or such other officer as by the government of the Philippine Islands may be described as mining recorder, together with the certificate of the chief of the Philippine insular bureau of public lands that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the provincial treasurer or the collector of internal revenue of the province in which the claim is situated, as the case may be, five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment roll shall be certified by the provincial secretary or such other officer as by said government may be described as mining recorder to the secretary of the interior of the Philippine Islands, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, rightly to possess. The adverse claim may be verified by the oath of any duly authorized agent or attorney in fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the province wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record, or any notary public of any province or military department of the Philippine Islands, or any other officer authorized to administer oaths where the adverse claimant may then be. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the chief of the Philippine insular bureau of public lands, whereupon the provincial secretary or such other officer as by the government of said islands may be described as mining recorder shall certify the proceedings and judgment roll to the secretary of the interior for the Philippine Islands, as in the preceding case, and patents shall issue to the several parties according to their respective rights. If in any action brought pursuant to this section title to the ground in controversy shall not be established by either party, the court shall so find, and judgment shall be entered accordingly. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the office of the provincial secretary or such other officer as by the government of said islands may be described as mining recorder or be entitled to a patent for the ground in controversy until he shall have perfected his title. Nothing herein contained shall be construed to prevent the alienation of a title conveyed by a patent for a mining claim to any person whatever.

SEC. 40. That the description of mineral claims upon surveyed lands shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued for claims upon unsurveyed lands the chief of the Philippine insular bureau of public lands in extending the surveys shall adjust the same to the boundaries of such patented claim according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

SEC. 41. That any person authorized to enter lands under this Act may enter and obtain patent to lands that are chiefly valuable for

building stone under the provisions of this Act relative to placer mineral claims.

SEC. 42. That any person authorized to enter lands under this Act may enter and obtain patent to lands containing petroleum or other mineral oils and chiefly valuable therefor under the provisions of this Act relative to placer mineral claims.

SEC. 43. That no location of a placer claim shall exceed sixty-four hectares for any association of persons, irrespective of the number of persons composing such association, and no such location shall include more than eight hectares for an individual claimant. Such locations shall conform to the laws of the United States Philippine Commission, or its successors, with reference to public surveys, and nothing in this section contained shall defeat or impair any bona fide ownership of land for agricultural purposes or authorize the sale of the improvements of any bona fide settler to any purchaser.

SEC. 44. That where placer claims are located upon surveyed lands and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the date of passage of this Act shall conform as nearly as practicable to the Philippine system of public-land surveys and the regular subdivisions of such surveys; but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral lands in any legal subdivision a quantity of agricultural land less than sixteen hectares shall remain, such fractional portion of agricultural land may be entered by any party qualified by law for homestead purposes.

SEC. 45. That where such person or association, they and their grantors have held and worked their claims for a period equal to the time prescribed by the statute of limitations of the Philippine Islands, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this Act, in the absence of any adverse claim; but nothing in this Act shall be deemed to impair any lien which may have attached in any way whatever prior to the issuance of a patent.

SEC. 46. That the chief of the Philippine insular bureau of public lands may appoint competent deputy mineral surveyors to survey mining claims. The expenses of the survey of vein or lode claims and of the survey of placer claims, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any such deputy mineral surveyor to make the survey. The chief of the Philippine insular bureau of public lands shall also have power to establish the maximum charges for surveys and publication of notices under this Act; and in case of excessive charges for publication he may designate any newspaper published in a province where mines are situated, or in Manila, for the publication of mining notices and fix the rates to be charged by such paper; and to the end that the chief of the bureau of public lands may be fully informed on the subject such applicant shall file with the provincial secretary, or such other officer as by the government of the Philippine Islands may be described as mining recorder, a sworn statement of all charges and fees paid by such applicant for publication and surveys, and of all fees and money paid the provincial treasurer or the collector of internal reveune, as the case may be,

which statement shall be transmitted, with the other papers in the case, to the secretary of the interior for the Philippine Islands.

SEC. 47. That all affidavits required to be made under this Act may be verified before any officer authorized to administer oaths within the province or military department where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the proper provincial secretary or such other officer as by the government of the Philippine Islands may be described as mining recorder. In cases of contest as to the mineral or agricultural character of land the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party can not be found, then by publication at least once a week for thirty days in a newspaper to be designated by the provincial secretary or such other officer as by said government may be described as mining recorder published nearest to the location of such land and in two newspapers published in Manila, one in the English language and one in the Spanish language, to be designated by the chief of the Philippine insular bureau of public lands; and the provincial secretary or such other officer as by said government may be described as mining recorder shall require proofs that such notice has been given.

SEC. 48. That where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an applicatioin for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location of such nonadjacent land shall exceed two hectares, and payment for the same must be made at the same rate as fixed by this Act for the superficies of the lode. The owner of a quartz mill or reduction works not owning a mine in connection therewith may also receive a patent for his mill site as provided in this section.

SEC. 49. That as a condition of sale the Government of the Philippine Islands may provide rules for working, policing, and sanitation of mines, and rules concerning easements, drainage, water rights, right of way, right of Government survey and inspection, and other necessary means to their complete development not inconsistent with the provisions of this Act, and those conditions shall be fully expressed in the patent. The Philippine Commission or its successors are hereby further empowered to fix the bonds of deputy mineral surveyors.

SEC. 50. That whenever by priority of possession rights to the use of water for mining, agricultural, manufacturing, or other purposes have vested and accrued and the same are recognized and acknowleged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same, and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed, but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 51. That all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights as may have been acquired under or recognized by the preceding section.

SEC. 52. That the Government of the Philippine Islands is authorized to establish land districts and provide for the appointment of the necessary officers wherever they may deem the same necessary for the public convenience, and to further provide that in districts where land offices are established proceedings required by this Act to be had before provincial officers shall be had before the proper officers of such land offices.

SEC. 53. That every person above the age of twenty-one years, who is a citizen of the United States, or of the Philippine Islands, or who has acquired the rights of a native of said islands under and by virtue of the treaty of Paris, or any association of persons severally qualified as above, shall, upon application to the proper provincial treasurer, have the right to enter any quantity of vacant coal lands of said Islands not otherwise appropriated or reserved by competent authority, not exceeding sixty-four hectares to such individual person, or one hundred and twenty-eight hectares to such association, upon payment to the provincial treasurer or the collector of internal revenue, as the case may be, of not less than twenty-five dollars per hectare for such lands, where the same shall be situated more than fifteen miles from any completed railroad or available harbor or navigable stream, and not less than fifty dollars per hectare for such lands as shall be within fifteen miles of such road, harbor, or stream: *Provided*, That such entries shall be taken in squares of sixteen or sixty-four hectares, in conformity with the rules and regulations governing the public-land surveys of the said Islands in plotting legal subdivisions.

SEC. 54. That any person or association of persons, severally qualified as above provided, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry under the preceding section of the mines so opened and improved.

SEC. 55. That all claims under the preceding section must be presented to the proper provincial secretary within sixty days after the date of actual possession and the commencement of impovements on the land by the filing of a declaratory statement therefor; and where the improvements shall have been made prior to the expiration of three months from the date of the passage of this Act, sixty days from the expiration of such three months shall be allowed for the filing of a declaratory statement; and no sale under the provisions of this Act shall be allowed until the expiration of six months from the date of the passage of this Act.

SEC. 56. That the three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons, any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such section shall enter or hold any other lands under their provisions; and all persons claiming under section fifty-eight shall be required to prove their respective rights and pay for the

lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

SEC. 57. That in case of conflicting claims upon coal lands where the improvements shall be commenced after the date of the passage of this Act, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made prior to the passage of this Act, division of the land claimed may be made by legal subdivisions, which shall conform as nearly as practicable with the subdivisions of land provided for in this Act, to include as near as may be the valuable improvements of the respective parties. The Government of the Philippine Islands is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and preceding sections relating to mineral lands.

SEC. 58. That whenever it shall be made to appear to the secretary of any province or the commander of any military department in the Philippine Islands that any lands within the province are saline in character, it shall be the duty of said provincial secretary or commander, under the regulations of the Government of the Philippine Islands, to take testimony in reference to such lands, to ascertain their true character, and to report the same to the secretary of the interior for the Philippine Islands; and if, upon such testimony, the secretary of the interior shall find that such lands are saline and incapable of being purchased under any of the laws relative to the public domain, then and in such case said lands shall be offered for sale at the office of the provincial secretary or such other officer as by the said government may be described as mining recorder of the province or department in which the same shall be situated, as the case may be, under such regulations as may be prescribed by said Government and sold to the highest bidder, for cash, at a price of not less than three dollars per hectare; and in case such lands fail to sell when so offered, then the same shall be subject to private sale at such office, for cash, at a price not less than three dollars per hectare, in the same manner as other lands in the said Islands are sold. All executive proclamations relating to the sales of public saline lands shall be published in only two newspapers, one printed in the English language and one in the Spanish language, at Manila, which shall be designated by said secretary of the interior.

SEC. 59. That no Act granting lands to provinces, districts, or municipalities to aid in the construction of roads, or for other public purposes, shall be so construed as to embrace mineral lands, which, in all cases, are reserved exclusively, unless otherwise specially provided in the Act or Acts making the grant.

SEC. 60. That nothing in this Act shall be construed to affect the rights of any person, partnership, or corporation having a valid, perfected mining concession granted prior to April eleventh, eighteen hundred and ninety-nine, but all such concessions shall be conducted under the provisions of the law in force at the time they were granted, subject at all times to cancellation by reason of illegality in the procedure by which they were obtained, or for failure to comply with the conditions prescribed as requisite to their retention

in the laws under which they were granted: *Provided*, That the owner or owners of every such concession shall cause the corners made by its boundaries to be distinctly marked with permanent monuments within six months after this Act has been promulgated in the Philippine Islands, and that any concessions the boundaries of which are not so marked within this period shall be free and open to exploration and purchase under the provisions of this Act.

SEC. 61. That mining rights on public lands in the Philippine Islands shall, after the passage of this Act, be acquired only in accordance with its provisions.

SEC. 62. That all proceedings for the cancellation of perfected Spanish concessions shall be conducted in the courts of the Philippine Islands having jurisdiction of the subject-matter and of the parties, unless the United States Philippine Commission, or its successors, shall create special tribunals for the determination of such controversies.

AUTHORITY FOR THE PHILIPPINE ISLANDS GOVERNMENT TO PURCHASE LANDS OF RELIGIOUS ORDERS AND OTHERS AND ISSUE BONDS FOR PURCHASE PRICE

SEC. 63. That the government of the Philippine Islands is hereby authorized, subject to the limitations and conditions prescribed in this Act, to acquire, receive, hold, maintain, and convey title to real and personal property, and may acquire real estate for public uses by the exercise of the right of eminent domain.

SEC. 64. That the powers hereinbefore conferred in sections sixty-three may also be exercised in respect of any lands, easements, appurtenances, and hereditaments which, on the thirteenth of August, eighteen hundred and ninety-eight, were owned or held by associations, corporations, communities, religious orders, or private individuals in such large tracts or parcels or in such manner as in the opinion of the Commission injuriously to affect the peace and welfare of the people of the Philippine Islands. And for the purpose of providing funds to acquire the lands mentioned in this section said government of the Philippine Islands is hereby empowered to incur indebtedness, to borrow money, and to issue, and to sell at not less than par value, in gold coin of the United States of the present standard value or the equivalent in value in money of said Islands, upon such terms and conditions as it may deem best, registered or coupon bonds of said government for such amount as may be necessary, said bonds to be in denominations of fifty dollars or any multiple thereof, bearing interest at a rate not exceeding four and a half per centum per annum, payable quarterly, and to be payable at the pleasure of said government after dates named in said bonds not less than five nor more than thirty years from the date of their issue, together with interest thereon, in gold coin of the United States of the present standard value or the equivalent in value in money of said Islands; and said bonds shall be exempt from the payment of all taxes or duties of said government, or any local authority therein, or of the Government of the United States, as well as from taxation in any form by or under State, municipal, or local authority in the United States or the Philippine Islands. The moneys which may be realized or received from the issue and sale of said bonds shall be ap-

plied by the government of the Philippine Islands to the acquisition of the property authorized by this section, and to no other purposes.

SEC. 65. That all lands acquired by virtue of the preceding section shall constitute a part and portion of the public property of the government of the Philippine Islands, and may be held, sold, and conveyed, or leased temporarily for a period not exceeding three years after their acquisition by said government on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this Act: *Provided*, That all deferred payments and the interest thereon shall be payable in the money prescribed for the payment of principal and interest of the bonds authorized to be issued in payment of said lands by the preceding section and said deferred payments shall bear interest at the rate borne by the bonds. All moneys realized or received from sales or other disposition of said lands or by reason thereof shall constitute a trust fund for the payment of principal and interest of said bonds, and also constitute a sinking fund for the payment of said bonds at their maturity. Actual settlers and occupants at the time said lands are acquired by the government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said government.

MUNICIPAL BONDS FOR PUBLIC IMPROVEMENTS

SEC. 66. That for the purpose of providing funds to construct sewers, to furnish adequate sewer and drainage facilities, to secure a sufficient supply of water, and to provide all kinds of municipal betterments and improvements in municipalities, the government of the Philippine Islands, under such limitations, terms, and conditions as it may prescribe, with the consent and approval of the President and the Congress of the United States, may permit any municipality of said islands to incur indebtedness, borrow money, and to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds in such amount and payable at such time as may be determined by the government of said islands, with interest thereon not to exceed five per centum per annum: *Provided*, That the entire indebtedness of any municipality under this section shall not exceed five per centum of the assessed valuation of the property in said municipality, and any obligation in excess of such limit shall be null and void.

SEC. 67. That all municipal bonds shall be in denominations of fifty dollars, or any multiple thereof, bearing interest at a rate not exceeding five per centum per annum, payable quarterly, such bonds to be payable at the pleasure of the government of the Philippine Islands, after dates named in said bonds not less than five nor more than thirty years from the date of their issue, together with the interest thereon, in gold coin of the United States of the present standard value, or its equivalent in value in money of the said Islands; and said bonds shall be exempt from the payment of all taxes or duties of the government of the Philippine Islands, or any local authority therein, or the Government of the United States.

SEC. 68. That all moneys which may be realized or received from the issue and sale of said bonds shall be utilized under authorization

of the government of the Philippine Islands in providing the municipal improvements and betterment which induced the issue and sale of said bonds, and for no other purpose.

SEC. 69. That the government of the Philippine Islands shall, by the levy and collection of taxes on the municipality, its inhabitants and their property, or by other means, make adequate provision to meet the obligation of the bonds of such municipality, and shall create a sinking fund sufficient to retire them and pay the interest thereon in accordance with the terms of issue: *Provided*, That if said bonds or any portion thereof shall be paid out of the funds of the government of said islands, such municipality shall reimburse said government for the sum thus paid, and said government is hereby empowered to collect said sum by the levy and collection of taxes on such municipality.

SEC. 70. That for the purpose of providing funds to construct sewers in the city of Manila and to furnish it with an adequate sewer and drainage system and supply of water the government of the Philippine Islands, with the approval of the President of the United States first had, is hereby authorized to permit the city of Manila to incur indebtedness, to borrow money, and to issue and sell (at not less than par value in gold coin of the United States), upon such terms and conditions as it may deem best, registered or coupon bonds of the city of Manila to an amount not exceeding four million dollars lawful money of the United States, payable at such time or times as may be determined by said government, with interest thereon not to exceed five per centum per annum.

SEC. 71. That said coupon or registered bonds shall be in denominations of fifty dollars or any multiple thereof, bearing interest at a rate not exceeding five per centum per annum, payable quarterly, such bonds to be payable at the pleasure of the government of the Philippine Islands, after dates named in said bonds not less than five nor more than thirty years from the date of their issue, together with the interest thereon in gold coin of the United States of the present standard value, or the equivalent in value in money of the said Islands; and said bonds shall be exempt from the payment of all taxes or duties of the government of the said Islands, or of any local authority therein, or of the Government of the United States.

SEC. 72. That all moneys which may be realized or received from the issue and sale of said bonds shall be utilized under authorization of said government of the Philippine Islands in providing a suitable sewer and drainage system and adequate supply of water for the city of Manila and for no other purpose.

SEC. 73. That the government of the Philippine Islands shall, by the levy and collection of taxes on the city of Manila, its inhabitants and their property, or by other means, make adequate provision to meet the obligation of said bonds and shall create a sinking fund sufficient to retire them and pay the interest thereon in accordance with the terms of issue: *Provided*, That if said bonds or any portion thereof shall be paid out of the funds of the government of said islands, said city shall reimburse said government for the sum thus paid, and said government is hereby empowered to collect said sum by the levy and collection of taxes on said city.

FRANCHISES

SEC. 74. That the government of the Philippine Islands may grant franchises, privileges, and concessions, including the authority to exercise the right of eminent domain for the construction and operation of works of public utility and service, and may authorize said works to be constructed and maintained over and across the public property of the United States, including streets, highways, squares, and reservations, and over similar property of the government of said Islands, and may adopt rules and regulations under which the provincial and municipal governments of the islands may grant the right to use and occupy such public property belonging to said provinces or municipalities: *Provided*, That no private property shall be taken for any purpose under this section without just compensation paid or tendered therefor, and that such authority to take and occupy land shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the franchise is granted, and that no franchise, privilege, or concession shall be granted to any corporation except under the conditions that it shall be subject to amendment, alteration, or repeal by the Congress of the United States, and that lands or rights of use and occupation of lands thus granted shall revert to the governments by which they were respectively granted upon the termination of the franchises and concessions under which they were granted or upon their revocation or repeal. That all franchises, privileges, or concessions granted under this Act shall forbid the issue of stock or bonds except in exchange for actual cash, or for property at a fair valuation, equal to the par value of the stock or bonds so issued; shall forbid the declaring of stock or bond dividends, and, in the case of public-service corporations, shall provide for the effective regulation of the charges thereof, for the official inspection and regulation of the books and accounts of such corporations, and for the payment of a reasonable percentage of gross earnings into the treasury of the Philippine Islands or of the province or municipality within which such franchises are granted and exercised: *Provided further*, That it shall be unlawful for any corporation organized under this Act, or for any person, company, or corporation receiving any grant, franchise, or concession from the government of said Islands, to use, employ, or contract for the labor of persons claimed or alleged to be held in involuntary servitude; and any person, company, or corporation so violating the provisions of this Act shall forfeit all charters, grants, franchises, and concessions for doing business in said Islands, and in addition shall be deemed guilty of an offense, and shall be punished by a fine of not less than ten thousand dollars.

SEC. 75. That no corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it is created, and every corporation authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed one thousand and twenty-four hectares of land; and it shall be unlawful for any member of a corporation engaged in agriculture or mining and for any corporation organized for any purpose except irrigation to be in any wise interested in any other corporation engaged in agricul-

ture or in mining. Corporations, however, may loan funds upon real-estate security and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in the Philippine Islands, and doing business therein, shall be bound by the provisions of this section so far as they are applicable.

COINAGE

SEC. 76. That the government of the Philippine Islands is hereby authorized to establish a mint at the city of Manila, in said islands, for coinage purposes, and the coins hereinafter authorized may be coined at said mint. And the said government is hereby authorized to enact laws necessary for such establishment: *Provided*, That the laws of the United States relating to mints and coinage, so far as applicable, are hereby extended to the coinage of said islands.

SEC. 77. That the government of the Philippine Islands is authorized to coin, for use in said islands, a coin of the denomination of fifty centavos and of the weight of one hundred and ninety-two and nine-tenth grains, a coin of the denomination of twenty centavos and of the weight of seventy-seven and sixteen one-hundredths grains, and a coin of the denomination of ten centavos and of the weight of thirty-eight and fifty-eight one-hundredths grains, and the standard of said silver coins shall be such that of one thousand parts by weight nine hundred shall be of pure metal and one hundred of alloy, and the alloy shall be of copper.

SEC. 78. That the subsidiary silver coins authorized by the preceding section shall be coined under the authority of the government of the Philippine Islands in such amounts as it may determine, with the approval of the Secretary of War of the United States, from silver bullion purchased by said government, with the approval of the Secretary of War of the United States: *Provided*, That said government may in addition and in its discretion recoin the Spanish Filipino dollars and subsidiary silver coins issued under the authority of the Spanish Government for use in said islands into the subsidiary coins provided for in the preceding section at such rate and under such regulations as it may prescribe, and the subsidiary silver coins authorized by this section shall be legal tender in said islands to the amount of ten dollars.

SEC. 79. That the government of the Philippine Islands is also authorized to issue minor coins of the denominations of one-half centavo, one centavo, and five centavos, and such minor coins shall be legal tender in said islands for amounts not exceeding one dollar. The alloy of the five-centavo piece shall be of copper and nickel, to be composed of three-fourths copper and one-fourth nickel. The alloy of the one-centavo and one-half-centavo pieces shall be ninety-five per centum of copper and five per centum of tin and zinc, in such proportions as shall be determined by said government. The weight of the five-centavo piece shall be seventy-seven and sixteen-hundredths grains troy, and of the one-centavo piece eighty grains troy, and of the one-half-centavo piece forty grains troy.

SEC. 80. That for the purchase of metal for the subsidiary and minor coinage, authorized by the preceding sections, an appropriation may be made by the government of the Philippine Islands from

its current funds, which shall be reimbursed from the coinage under said sections; and the gain or seigniorage arising therefrom shall be paid into the treasury of said Islands.

SEC. 81. That the subsidiary and minor coinage hereinbefore authorized may be coined at the mint of the government of the Philippine Islands at Manila, or arrangements may be made by the said government with the Secretary of the Treasury of the United States for their coinage at any of the mints of the United States, at a charge covering the reasonable cost of the work.

SEC. 82. That the subsidiary and minor coinage hereinbefore authorized shall bear devices and inscriptions to be prescribed by the government of the Philippine Islands and such devices and inscriptions shall express the sovereignty of the United States, that it is a coin of the Philippine Islands, the denomination of the coin, and the year of the coinage.

SEC. 83. That the government of the Philippine Islands shall have the power to make all necessary appropriations and all proper regulations for the redemption and reissue of worn or defective coins and for carrying out all other provisions of this Act relating to coinage.

SEC. 84. That the laws relating to entry, clearance, and manifests of steamships and other vessels arriving from or going to foreign ports shall apply to voyages each way between the Philippine Islands and the United States and the possessions thereof, and all laws relating to the collection and protection of customs duties not inconsistent with the Act of Congress of March eighth, nineteen hundred and two, "temporarily to provide revenue for the Philippine Islands," shall apply in the case of vessels and goods arriving from said Islands in the United States and its aforesaid possessions.

The laws relating to seamen on foreign voyages shall apply to seamen on vessels going from the United States and its possessions aforesaid to said Islands, the customs officers there being for this purpose substituted for consular officers in foreign ports.

The provisions of chapters six and seven, title forty-eight, Revised Statutes, so far as now in force, and any amendments thereof, shall apply to vessels making voyages either way between ports of the United States or its aforesaid possessions and ports in said Islands; and the provisions of law relating to the public health and quarantine shall apply in the case of all vessels entering a port of the United States or its aforesaid possessions from said Islands, where the customs officers at the port of departure shall perform the duties required by such law of consular officers in foreign ports.

Section three thousand and five, Revised Statutes, as amended, and other existing laws concerning the transit of merchandise through the United States, shall apply to merchandise arriving at any port of the United States destined for any of its insular and continental possessions, or destined from any of them to foreign countries.

Nothing in this Act shall be held to repeal or alter any part of the Act of March eighth, nineteen hundred and two, aforesaid, or to apply to Guam, Tutuila, or Manua, except that section eight of an Act entitled "An Act to revise and amend the tariff laws of the Philippine Archipelago," enacted by the Philippine Commission on the seventeenth of September, nineteen hundred and one, and approved by an

Act entitled "An Act temporarily to provide revenues for the Philippine Islands, and for other purposes," approved March eighth, nineteen hundred and two, is hereby amended so as to authorize the Civil Governor thereof in his discretion to establish the equivalent rates of the money in circulation in said Islands with the money of the United States as often as once in ten days.

SEC. 85. That the treasury of the Philippine Islands and such banking associations in said islands with a paid up capital of not less than two million dollars and chartered by the United States or any State thereof as may be designated by the Secretary of War and the Secretary of the Treasury of the United States shall be depositories of public money of the United States, subject to the provisions of existing law governing such depositories in the United States: *Provided*, That the treasury of the government of said islands shall not be required to deposit bonds in the Treasury of the United States, or to give other specific securities for the safe-keeping of public money except as prescribed, in his discretion, by the Secretary of War.

SEC. 86. That all laws passed by the government of the Philippine Islands shall be reported to Congress, which hereby reserves the power and authority to annul the same, and the Philippine Commission is hereby directed to make annual report of all its receipts and expenditures to the Secretary of War.

BUREAU OF INSULAR AFFAIRS

SEC. 87. That the Division of Insular Affairs of the War Department, organized by the Secretary of War, is hereby continued until otherwise provided, and shall hereafter be known as the Bureau of Insular Affairs of the War Department. The business assigned to said Bureau shall embrace all matters pertaining to civil government in the island possessions of the United States subject to the jurisdiction of the War Department; and the Secretary of War is hereby authorized to detail an officer of the Army whom he may consider especially well qualified, to act under the authority of the Secretary of War as the chief of said Bureau; and said officer while acting under said detail shall have the rank, pay, and allowances of a colonel.

SEC. 88. That all Acts and parts of Acts inconsistent with this Act are hereby repealed.

Approved, July 1, 1902.

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